

## Calendar No. 94

109TH CONGRESS  
1ST SESSION**S. 907**

To amend chapter 53 of title 49, United States Code, to improve the Nation's public transportation and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 26, 2005

Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

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**A BILL**

To amend chapter 53 of title 49, United States Code, to improve the Nation's public transportation and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Public Trans-  
5       portation Act of 2005”.

1 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE;**  
 2 **UPDATED TERMINOLOGY.**

3 (a) AMENDMENTS TO TITLE 49.—Except as other-  
 4 wise specifically provided, whenever in this Act an amend-  
 5 ment or repeal is expressed in terms of an amendment  
 6 to, or repeal of, a section or other provision of law, the  
 7 reference shall be considered to be made to a section or  
 8 other provision of title 49, United States Code.

9 (b) UPDATED TERMINOLOGY.—Except for sections  
 10 5301(f), 5302(a)(7), and 5315, chapter 53, including the  
 11 chapter analysis, is amended by striking “mass transpor-  
 12 tation” each place it appears and inserting “public trans-  
 13 portation”.

14 **SEC. 3. POLICIES, FINDINGS, AND PURPOSES.**

15 (a) DEVELOPMENT AND REVITALIZATION OF PUBLIC  
 16 TRANSPORTATION SYSTEMS.—Section 5301(a) is amend-  
 17 ed to read as follows:

18 “(a) DEVELOPMENT AND REVITALIZATION OF PUB-  
 19 LIC TRANSPORTATION SYSTEMS.—It is in the economic  
 20 interest of the United States to foster the development and  
 21 revitalization of public transportation systems, which are  
 22 coordinated with other modes of transportation, that  
 23 maximize the efficient, secure, and safe mobility of individ-  
 24 uals and minimize environmental impacts.”.

25 (b) GENERAL FINDINGS.—Section 5301(b)(1) is  
 26 amended—

1           (1) by striking “70 percent” and inserting  
2           “two-thirds”; and

3           (2) by striking “urban areas” and inserting  
4           “urbanized areas”.

5           (c) PRESERVING THE ENVIRONMENT.—Section  
6 5301(e) is amended—

7           (1) by striking “an urban” and inserting “a”;  
8           and

9           (2) by striking “under sections 5309 and 5310  
10          of this title”.

11          (d) GENERAL PURPOSES.—Section 5301(f) is  
12 amended—

13           (1) in paragraph (1)—

14                   (A) by striking “improved mass” and in-  
15                   serting “improved public”; and

16                   (B) by striking “public and private mass  
17                   transportation companies” and inserting “pub-  
18                   lic transportation companies and private compa-  
19                   nies engaged in public transportation”;

20           (2) in paragraph (2)—

21                   (A) by striking “urban mass” and insert-  
22                   ing “public”; and

23                   (B) by striking “public and private mass  
24                   transportation companies” and inserting “pub-

1           lic transportation companies and private compa-  
 2           nies engaged in public transportation”;

3           (3) in paragraph (3)—

4                 (A) by striking “urban mass” and insert-  
 5                 ing “public”; and

6                 (B) by striking “public or private mass  
 7                 transportation companies” and inserting “pub-  
 8                 lic transportation companies or private compa-  
 9                 nies engaged in public transportation”; and

10           (4) in paragraph (5), by striking “urban mass”  
 11           and inserting “public”.

12 **SEC. 4. DEFINITIONS.**

13           Section 5302(a) is amended—

14           (1) in paragraph (1)—

15                 (A) in subparagraph (G)(i), by inserting  
 16                 “including the intercity bus and intercity rail  
 17                 portions of such facility or mall,” after “trans-  
 18                 portation mall,”;

19                 (B) in subparagraph (G)(ii), by inserting  
 20                 “, except for the intercity bus portion of inter-  
 21                 modal facilities or malls,” after “commercial  
 22                 revenue-producing facility”;

23                 (C) in subparagraph (H)—

24                     (i) by striking “and” after “innova-  
 25                     tive” and inserting “or”; and

1 (ii) by striking “or” after the semi-  
2 colon at the end;

3 (D) in subparagraph (I), by striking the  
4 period at the end and inserting a semicolon;  
5 and

6 (E) by adding at the end the following:

7 “(J) crime prevention and security, includ-  
8 ing—

9 “(i) projects to refine and develop se-  
10 curity and emergency response plans; or

11 “(ii) projects to detect chemical or bi-  
12 ological agents in public transportation;

13 “(K) conducting emergency response drills  
14 with public transportation agencies and local  
15 first response agencies or security training for  
16 public transportation employees, except for ex-  
17 penses relating to operations; or

18 “(L) establishing a debt service reserve,  
19 made up of deposits with a bondholder’s trust-  
20 ee, to ensure the timely payment of principal  
21 and interest on bonds issued by a grant recipi-  
22 ent to finance an eligible project under this  
23 chapter.”;

24 (2) by redesignating paragraphs (8) through  
25 (17) as paragraphs (9) through (18), respectively;

1           (3) by striking paragraph (7) and inserting the  
2 following:

3           “(7) MASS TRANSPORTATION.—The term ‘mass  
4 transportation’ means public transportation.

5           “(8) MOBILITY MANAGEMENT.—The term ‘mo-  
6 bility management’ means a short-range planning or  
7 management activity or project that does not include  
8 operating public transportation services and—

9           “(A) improves coordination among public  
10 transportation providers, including private com-  
11 panies engaged in public transportation;

12           “(B) addresses customer needs by tailoring  
13 public transportation services to specific market  
14 niches; or

15           “(C) manages public transportation de-  
16 mand.”;

17           (4) by amending paragraph (11), as redesign-  
18 nated, to read as follows:

19           “(11) PUBLIC TRANSPORTATION.—The term  
20 ‘public transportation’ means transportation by a  
21 conveyance that provides local regular and con-  
22 tinuing general or special transportation to the pub-  
23 lic, but does not include school bus, charter bus,  
24 intercity bus or passenger rail, or sightseeing trans-  
25 portation.”;

1 (5) in subparagraphs (A) and (E) of paragraph  
 2 (16), as redesignated, by striking “and” each place  
 3 it appears and inserting “or”; and

4 (6) by amending paragraph (18), as redesign-  
 5 nated, to read as follows:

6 “(18) URBANIZED AREA.—The term ‘urbanized  
 7 area’ means an area encompassing a population of  
 8 not less than 50,000 people that has been defined  
 9 and designated in the most recent decennial census  
 10 as an ‘urbanized area’ by the Secretary of Com-  
 11 merce.”.

12 **SEC. 5. METROPOLITAN TRANSPORTATION PLANNING.**

13 Section 5303 is amended to read as follows:

14 **“§ 5303. Metropolitan transportation planning**

15 “(a) DEFINITIONS.—As used in this section and in  
 16 section 5304, the following definitions shall apply:

17 “(1) CONSULTATION.—A ‘consultation’ occurs  
 18 when 1 party—

19 “(A) confers with another identified party  
 20 in accordance with an established process;

21 “(B) prior to taking action, considers the  
 22 views of the other identified party; and

23 “(C) periodically informs that party about  
 24 action taken.

1           “(2) METROPOLITAN PLANNING AREA.—The  
 2           term ‘metropolitan planning area’ means the geo-  
 3           graphic area determined by agreement between the  
 4           metropolitan planning organization and the Gov-  
 5           ernor under subsection (d).

6           “(3) METROPOLITAN PLANNING ORGANIZA-  
 7           TION.—The term ‘metropolitan planning organiza-  
 8           tion’ means the Policy Board of the organization  
 9           designated under subsection (c).

10          “(4) NONMETROPOLITAN AREA.—The term  
 11          ‘nonmetropolitan area’ means any geographic area  
 12          outside all designated metropolitan planning areas.

13          “(5) NONMETROPOLITAN LOCAL OFFICIAL.—  
 14          The term ‘nonmetropolitan local official’ means any  
 15          elected or appointed official of general purpose local  
 16          government located in a nonmetropolitan area who is  
 17          responsible for transportation services for such local  
 18          government.

19          “(b) GENERAL REQUIREMENTS.—

20          “(1) DEVELOPMENT OF PLANS AND PRO-  
 21          GRAMS.—To accomplish the objectives described in  
 22          section 5301(a), each metropolitan planning organi-  
 23          zation, in cooperation with the State and public  
 24          transportation operators, shall develop transpor-



1       tation plans and programs for metropolitan planning  
2       areas of the State in which it is located.

3           “(2) CONTENTS.—The plans and programs de-  
4       veloped under paragraph (1) for each metropolitan  
5       planning area shall provide for the development and  
6       integrated management and operation of transpor-  
7       tation systems and facilities (including pedestrian  
8       walkways and bicycle transportation facilities) that  
9       will function as an intermodal transportation system  
10      for the metropolitan planning area and as an inte-  
11      gral part of an intermodal transportation system for  
12      the State and the United States.

13          “(3) PROCESS OF DEVELOPMENT.—The process  
14      for developing the plans and programs shall provide  
15      for consideration of all modes of transportation and  
16      shall be continuing, cooperative, and comprehensive  
17      to the degree appropriate, based on the complexity  
18      of the transportation problems to be addressed.

19          “(4) PLANNING AND PROJECT DEVELOP-  
20      MENT.—The metropolitan planning organization, the  
21      State Department of Transportation, and the appro-  
22      priate public transportation provider shall agree  
23      upon the approaches that will be used to evaluate al-  
24      ternatives and identify transportation improvements

1       that address the most complex problems and press-  
2       ing transportation needs in the metropolitan area.

3       “(c) DESIGNATION OF METROPOLITAN PLANNING  
4 ORGANIZATIONS.—

5           “(1) IN GENERAL.—To carry out the transpor-  
6       tation planning process under this section, a metro-  
7       politan planning organization shall be designated for  
8       each urbanized area—

9           “(A) by agreement between the Governor  
10       and units of general purpose local government  
11       that combined represent not less than 75 per-  
12       cent of the affected population (including the  
13       incorporated city or cities named by the Bureau  
14       of the Census in designating the urbanized  
15       area); or

16           “(B) in accordance with procedures estab-  
17       lished by applicable State or local law.

18       “(2) STRUCTURE.—Each metropolitan planning  
19       organization designated under paragraph (1) that  
20       serves an area identified as a transportation man-  
21       agement area shall consist of—

22           “(A) local elected officials;

23           “(B) officials of public agencies that ad-  
24       minister or operate major modes of transpor-  
25       tation in the metropolitan area; and

1 “(C) appropriate State officials.

2 “(3) LIMITATION ON STATUTORY CONSTRU-  
3 TION.—Nothing in this subsection shall be construed  
4 to interfere with the authority, under any State law  
5 in effect on December 18, 1991, of a public agency  
6 with multimodal transportation responsibilities—

7 “(A) to develop plans and programs for  
8 adoption by a metropolitan planning organiza-  
9 tion; and

10 “(B) to develop long-range capital plans,  
11 coordinate transit services and projects, and  
12 carry out other activities pursuant to State law.

13 “(4) CONTINUING DESIGNATION.—The designa-  
14 tion of a metropolitan planning organization under  
15 this subsection or any other provision of law shall  
16 remain in effect until the metropolitan planning or-  
17 ganization is redesignated under paragraph (5).

18 “(5) REDESIGNATION PROCEDURES.—A metro-  
19 politan planning organization may be redesignated  
20 by agreement between the Governor and units of  
21 general purpose local government that combined rep-  
22 resent not less than 75 percent of the existing plan-  
23 ning area population (including the incorporated city  
24 or cities named by the Bureau of the Census in des-

1       ignating the urbanized area) as appropriate to carry  
2       out this section.

3               “(6) DESIGNATION OF MORE THAN 1 METRO-  
4       POLITAN PLANNING ORGANIZATION.—More than 1  
5       metropolitan planning organization may be des-  
6       ignated within an existing metropolitan planning  
7       area only if the Governor and the existing metropoli-  
8       tan planning organization determine that the size  
9       and complexity of the existing metropolitan planning  
10      area make designation of more than 1 metropolitan  
11      planning organization for the area appropriate.

12      “(d) METROPOLITAN PLANNING AREA BOUND-  
13      ARIES.—

14              “(1) IN GENERAL.—For the purposes of this  
15      section, the boundaries of a metropolitan planning  
16      area shall be determined by agreement between the  
17      metropolitan planning organization and the Gov-  
18      ernor.

19              “(2) INCLUDED AREA.—Each metropolitan  
20      planning area—

21                  “(A) shall encompass at least the existing  
22      urbanized area and the contiguous area ex-  
23      pected to become urbanized within a 20-year  
24      forecast period for the transportation plan; and

1           “(B) may encompass the entire metropoli-  
2           tan statistical area or consolidated metropolitan  
3           statistical area, as defined by the Office of  
4           Management and Budget.

5           “(3) IDENTIFICATION OF NEW URBANIZED  
6           AREAS WITHIN EXISTING PLANNING AREA BOUND-  
7           ARIES.—The designation by the Bureau of the Cen-  
8           sus of new urbanized areas within an existing metro-  
9           politan planning area shall not require the redesign-  
10          nation of the existing metropolitan planning organi-  
11          zation.

12          “(4) EXISTING METROPOLITAN PLANNING  
13          AREAS IN NONATTAINMENT.—Notwithstanding para-  
14          graph (2), in the case of an urbanized area des-  
15          ignated as a nonattainment area for ozone or carbon  
16          monoxide under the Clean Air Act (42 U.S.C. 7401  
17          et seq.), the boundaries of the metropolitan planning  
18          area in existence as of the date of enactment of the  
19          Federal Public Transportation Act of 2005 shall be  
20          retained, except that the boundaries may be adjusted  
21          by agreement of the Governor and affected metro-  
22          politan planning organizations in accordance with  
23          paragraph (5).

24          “(5) NEW METROPOLITAN PLANNING AREAS IN  
25          NONATTAINMENT.—If an urbanized area is des-

1       ignated after the date of enactment of this para-  
2       graph in a nonattainment area for ozone or carbon  
3       monoxide, the boundaries of the metropolitan plan-  
4       ning area—

5               “(A) shall be established in accordance  
6       with subsection (c)(1);

7               “(B) shall encompass the areas described  
8       in paragraph (2)(A);

9               “(C) may encompass the areas described in  
10      paragraph (2)(B); and

11              “(D) may address any nonattainment iden-  
12      tified under the Clean Air Act (42 U.S.C. 7401  
13      et seq.) for ozone or carbon monoxide.

14      “(e) COORDINATION IN MULTISTATE AREAS.—

15              “(1) IN GENERAL.—The Secretary shall encour-  
16      age each Governor with responsibility for a portion  
17      of a multistate metropolitan area and the appro-  
18      priate metropolitan planning organizations to pro-  
19      vide coordinated transportation planning for the en-  
20      tire metropolitan area.

21              “(2) INTERSTATE COMPACTS.—States are au-  
22      thorized—

23               “(A) to enter into agreements or compacts  
24      with other States, which agreements or com-  
25      pacts are not in conflict with any law of the

1 United States, for cooperative efforts and mu-  
2 tual assistance in support of activities author-  
3 ized under this section as the activities pertain  
4 to interstate areas and localities within the  
5 States; and

6 “(B) to establish such agencies, joint or  
7 otherwise, as the States may determine desir-  
8 able for making the agreements and compacts  
9 effective.

10 “(3) LAKE TAHOE REGION.—

11 “(A) DEFINITION.—In this paragraph, the  
12 term ‘Lake Tahoe region’ has the meaning  
13 given the term ‘region’ in subdivision (a) of ar-  
14 ticle II of the Tahoe Regional Planning Com-  
15 pact, as set forth in the first section of Public  
16 Law 96–551 (94 Stat. 3234).

17 “(B) TRANSPORTATION PLANNING PROC-  
18 ESS.—The Secretary shall—

19 “(i) establish with the Federal land  
20 management agencies that have jurisdic-  
21 tion over land in the Lake Tahoe region a  
22 transportation planning process for the re-  
23 gion; and

24 “(ii) coordinate the transportation  
25 planning process with the planning process

1 required of State and local governments  
2 under this section and section 5304.

3 “(C) INTERSTATE COMPACT.—

4 “(i) IN GENERAL.—Subject to clause  
5 (ii) and notwithstanding subsection (c), to  
6 carry out the transportation planning proc-  
7 ess required by this section, California and  
8 Nevada may designate a metropolitan  
9 planning organization for the Lake Tahoe  
10 region, by agreement between the Governor  
11 of the State of California, the Governor of  
12 the State of Nevada, and units of general  
13 purpose local government that combined  
14 represent not less than 75 percent of the  
15 affected population (including the incor-  
16 porated city or cities named by the Bureau  
17 of the Census in designating the urbanized  
18 area), or in accordance with procedures es-  
19 tablished by applicable State or local law.

20 “(ii) INVOLVEMENT OF FEDERAL  
21 LAND MANAGEMENT AGENCIES.—

22 “(I) REPRESENTATION.—The  
23 policy board of a metropolitan plan-  
24 ning organization designated under  
25 clause (i) shall include a representa-



1           tive of each Federal land management  
2           agency that has jurisdiction over land  
3           in the Lake Tahoe region.

4                   “(II) FUNDING.—In addition to  
5           funds made available to the metropoli-  
6           tan planning organization under other  
7           provisions of title 23 and this chapter,  
8           not more than 1 percent of the funds  
9           allocated under section 202 of title 23  
10          may be used to carry out the trans-  
11          portation planning process for the  
12          Lake Tahoe region under this sub-  
13          paragraph.

14                   “(D) ACTIVITIES.—Highway projects in-  
15          cluded in transportation plans developed under  
16          this paragraph—

17                   “(i) shall be selected for funding in a  
18          manner that facilitates the participation of  
19          the Federal land management agencies  
20          that have jurisdiction over land in the  
21          Lake Tahoe region; and

22                   “(ii) may, in accordance with chapter  
23          2 of title 23, be funded using funds allo-  
24          cated under section 202 of title 23.

1       “(f) COORDINATION OF METROPOLITAN PLANNING  
2 ORGANIZATIONS.—

3               “(1) NONATTAINMENT AREAS.—If more than 1  
4 metropolitan planning organization has authority  
5 within a metropolitan area or an area which is des-  
6 ignated as a nonattainment area for ozone or carbon  
7 monoxide under the Clean Air Act (42 U.S.C. 7401  
8 et seq.), each metropolitan planning organization  
9 shall consult with the other metropolitan planning  
10 organizations designated for such area and the State  
11 in the coordination of plans required by this section.

12              “(2) TRANSPORTATION IMPROVEMENTS LO-  
13 CATED IN MULTIPLE METROPOLITAN PLANNING  
14 AREAS.—If a transportation improvement funded  
15 from the highway trust fund is located within the  
16 boundaries of more than 1 metropolitan planning  
17 area, the metropolitan planning organizations shall  
18 coordinate plans regarding the transportation im-  
19 provement.

20              “(3) INTERREGIONAL AND INTERSTATE  
21 PROJECT IMPACTS.—Planning for National Highway  
22 System, commuter rail projects, or other projects  
23 with substantial impacts outside a single metropoli-  
24 tan planning area or State shall be coordinated di-

1 rectly with the affected, contiguous, metropolitan  
2 planning organizations and States.

3 “(4) COORDINATION WITH OTHER PLANNING  
4 PROCESSES.—

5 “(A) IN GENERAL.—The Secretary shall  
6 encourage each metropolitan planning organiza-  
7 tion to coordinate its planning process, to the  
8 maximum extent practicable, with those officials  
9 responsible for other types of planning activities  
10 that are affected by transportation, including  
11 State and local land use planning, economic de-  
12 velopment, environmental protection, airport op-  
13 erations, housing, and freight.

14 “(B) OTHER CONSIDERATIONS.—The met-  
15 ropolitan planning process shall develop trans-  
16 portation plans with due consideration of, and  
17 in coordination with, other related planning ac-  
18 tivities within the metropolitan area. This  
19 should include the design and delivery of trans-  
20 portation services within the metropolitan area  
21 that are provided by—

22 “(i) recipients of assistance under this  
23 chapter;

24 “(ii) governmental agencies and non-  
25 profit organizations (including representa-

tives of the agencies and organizations)  
 that receive Federal assistance from a  
 source other than the Department of  
 Transportation to provide nonemergency  
 transportation services; and

“(iii) recipients of assistance under  
 section 204 of title 23.

“(g) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The goals and objectives  
 developed through the metropolitan planning process  
 for a metropolitan planning area under this section  
 shall address, in relation to the performance of the  
 metropolitan area transportation systems—

“(A) supporting the economic vitality of  
 the metropolitan area, especially by enabling  
 global competitiveness, productivity, and effi-  
 ciency, including through services provided by  
 public and private operators;

“(B) increasing the safety of the transpor-  
 tation system for motorized and nonmotorized  
 users;

“(C) increasing the security of the trans-  
 portation system for motorized and non-  
 motorized users;

1           “(D) increasing the accessibility and mobil-  
2           ity of people and for freight, including through  
3           services provided by public and private opera-  
4           tors;

5           “(E) protecting and enhancing the environ-  
6           ment (including the protection of habitat, water  
7           quality, and agricultural and forest land, while  
8           minimizing invasive species), promoting energy  
9           conservation, and promoting consistency be-  
10          tween transportation improvements and State  
11          and local land use planning and economic devel-  
12          opment patterns (including minimizing adverse  
13          health effects from mobile source air pollution  
14          and promoting the linkage of the transportation  
15          and development goals of the metropolitan  
16          area);

17          “(F) enhancing the integration and  
18          connectivity of the transportation system,  
19          across and between modes, for people and  
20          freight, including through services provided by  
21          public and private operators;

22          “(G) promoting efficient system manage-  
23          ment and operation; and

24          “(H) emphasizing the preservation and ef-  
25          ficient use of the existing transportation sys-

1           tem, including services provided by public and  
2           private operators.

3           “(2) SELECTION OF FACTORS.—After soliciting  
4           and considering any relevant public comments, the  
5           metropolitan planning organization shall determine  
6           which of the factors described in paragraph (1) are  
7           most appropriate to consider.

8           “(3) FAILURE TO CONSIDER FACTORS.—The  
9           failure to consider any factor specified in paragraph  
10          (1) shall not be reviewable by any court under title  
11          23, this title, subchapter II of chapter 5 of title 5,  
12          or chapter 7 of title 5 in any matter affecting a  
13          transportation plan, a transportation improvement  
14          plan, a project or strategy, or the certification of a  
15          planning process.

16          “(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

17                 “(1) IN GENERAL.—

18                         “(A) REQUIREMENT.—Each metropolitan  
19                         planning organization shall develop a transpor-  
20                         tation plan for its metropolitan planning area in  
21                         accordance with this subsection, and update  
22                         such plan—

23                                 “(i) not less frequently than once  
24                                 every 4 years in areas designated as non-  
25                                 attainment, as defined in section 107(d) of

1 the Clean Air Act (42 U.S.C. 7407(d)),  
2 and in areas that were nonattainment that  
3 have been redesignated as attainment, in  
4 accordance with paragraph (3) of such sec-  
5 tion, with a maintenance plan under sec-  
6 tion 175A of the Clean Air Act (42 U.S.C.  
7 7505a); or

8 “(ii) not less frequently than once  
9 every 5 years in areas designated as at-  
10 tainment, as defined in section 107(d) of  
11 the Clean Air Act.

12 “(B) COORDINATION FACTORS.—In devel-  
13 oping the transportation plan under this sec-  
14 tion, each metropolitan planning organization  
15 shall consider the factors described in sub-  
16 section (f) over a 20-year forecast period.

17 “(C) FINANCIAL ESTIMATES.—For the  
18 purpose of developing the transportation plan,  
19 the metropolitan planning organization, transit  
20 operator, and State shall cooperatively develop  
21 estimates of funds that will be available to sup-  
22 port plan implementation.

23 “(2) MITIGATION ACTIVITIES.—

1           “(A) IN GENERAL.—A transportation plan  
2           under this subsection shall include a discussion  
3           of—

4                   “(i) types of potential habitat,  
5                   hydrological, and environmental mitigation  
6                   activities that may assist in compensating  
7                   for loss of habitat, wetland, and other envi-  
8                   ronmental functions; and

9                   “(ii) potential areas to carry out these  
10                  activities, including a discussion of areas  
11                  that may have the greatest potential to re-  
12                  store and maintain the habitat types and  
13                  hydrological or environmental functions af-  
14                  fected by the plan.

15           “(B) CONSULTATION.—The discussion de-  
16           scribed in subparagraph (A) shall be developed  
17           in consultation with Federal and State tribal  
18           wildlife, land management, and regulatory  
19           agencies.

20           “(3) CONTENTS.— A transportation plan under  
21           this subsection shall be in a form that the Secretary  
22           determines to be appropriate and shall contain—

23                   “(A) an identification of transportation fa-  
24                   cilities, including major roadways, transit,  
25                   multimodal and intermodal facilities, intermodal



connectors, and other relevant facilities identified by the metropolitan planning organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

“(B) a financial plan that—

“(i) demonstrates how the adopted transportation plan can be implemented;

“(ii) indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if approved by the Secretary and reasonable additional resources beyond those identified in the financial plan were available;

“(C) operational and management strategies to improve the performance of existing

1 transportation facilities to relieve vehicular con-  
2 gestion and maximize the safety and mobility of  
3 people and goods;

4 “(D) capital investment and other strate-  
5 gies to preserve the existing metropolitan trans-  
6 portation infrastructure and provide for  
7 multimodal capacity increases based on regional  
8 priorities and needs; and

9 “(E) proposed transportation and transit  
10 enhancement activities.

11 “(4) CONSULTATION.—

12 “(A) IN GENERAL.—In each metropolitan  
13 area, the metropolitan planning organization  
14 shall consult, as appropriate, with State and  
15 local agencies responsible for land use manage-  
16 ment, natural resources, environmental protec-  
17 tion, conservation, and historic preservation  
18 concerning the development of a long-range  
19 transportation plan.

20 “(B) ISSUES.—The consultation shall in-  
21 volve—

22 “(i) comparison of transportation  
23 plans with State conservation plans or with  
24 maps, if available;

1                   “(ii) comparison of transportation  
2                   plans to inventories of natural or historic  
3                   resources, if available; or

4                   “(iii) consideration of areas where  
5                   wildlife crossing structures may be needed  
6                   to ensure connectivity between wildlife  
7                   habitat linkage areas.

8                   “(5) COORDINATION WITH CLEAN AIR ACT  
9                   AGENCIES.—In metropolitan areas in nonattainment  
10                  for ozone or carbon monoxide under the Clean Air  
11                  Act (42 U.S.C. 7401 et seq.), the metropolitan plan-  
12                  ning organization shall coordinate the development  
13                  of a transportation plan with the process for devel-  
14                  opment of the transportation control measures of the  
15                  State implementation plan required by the Clean Air  
16                  Act.

17                  “(6) APPROVAL OF THE TRANSPORTATION  
18                  PLAN.—Each transportation plan prepared by a  
19                  metropolitan planning organization shall be—

20                         “(A) approved by the metropolitan plan-  
21                         ning organization; and

22                         “(B) submitted to the Governor for infor-  
23                         mation purposes at such time and in such man-  
24                         ner as the Secretary may reasonably require.

25                  “(i) PARTICIPATION BY INTERESTED PARTIES.—

1           “(1) DEVELOPMENT OF PARTICIPATION  
2           PLAN.—Not less frequently than every 4 years, each  
3           metropolitan planning organization shall develop and  
4           adopt a plan for participation in the process for de-  
5           veloping the metropolitan transportation plan and  
6           programs by—

7                   “(A) citizens;

8                   “(B) affected public agencies;

9                   “(C) representatives of public transpor-  
10           tation employees;

11                   “(D) freight shippers;

12                   “(E) providers of freight transportation  
13           services;

14                   “(F) private providers of transportation;

15                   “(G) representatives of users of public  
16           transit;

17                   “(H) representatives of users of pedestrian  
18           walkways and bicycle transportation facilities;

19           and

20                   “(I) other interested parties.

21           “(2) CONTENTS OF PARTICIPATION PLAN.—The  
22           participation plan—

23                   “(A) shall be developed in a manner the  
24           Secretary determines to be appropriate;

1           “(B) shall be developed in consultation  
2           with all interested parties; and

3           “(C) shall provide that all interested par-  
4           ties have reasonable opportunities to comment  
5           on—

6                   “(i) the process for developing the  
7                   transportation plan; and

8                   “(ii) the contents of the transpor-  
9                   tation plan.

10           “(3) METHODS.—The participation plan shall  
11           provide that the metropolitan planning organization  
12           shall, to the maximum extent practicable—

13                   “(A) hold any public meetings at conven-  
14                   ient and accessible locations and times;

15                   “(B) employ visualization techniques to de-  
16                   scribe plans; and

17                   “(C) make public information available in  
18                   electronically accessible format and means, such  
19                   as the World Wide Web.

20           “(4) CERTIFICATION.—Before the metropolitan  
21           planning organizations approve a transportation  
22           plan or program, each metropolitan planning organi-  
23           zation shall certify that it has complied with the re-  
24           quirements of the participation plan it has adopted.

25           “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

1 “(1) DEVELOPMENT AND UPDATE.—

2 “(A) IN GENERAL.—In cooperation with  
3 the State and affected operators of public  
4 transportation, a metropolitan planning organi-  
5 zation designated for a metropolitan planning  
6 area shall develop a transportation improvement  
7 program for the area.

8 “(B) PARTICIPATION.—In developing the  
9 transportation improvement program, the met-  
10 ropolitan planning organization, in cooperation  
11 with the Governor and any affected operator of  
12 public transportation, shall provide an oppor-  
13 tunity for participation by interested parties in  
14 the development of the program, in accordance  
15 with subsection (i).

16 “(C) UPDATES.—The transportation im-  
17 provement program shall be updated not less  
18 than once every 4 years and shall be approved  
19 by the metropolitan planning organization and  
20 the Governor.

21 “(D) FUNDING ESTIMATE.—In developing  
22 the transportation improvement program, the  
23 metropolitan planning organization, operators  
24 of public transportation, and the State shall co-  
25 operatively develop estimates of funds that are

reasonably expected to be available to support  
program implementation.

“(E) PROJECT ADVANCEMENT.—Projects  
listed in the transportation improvement pro-  
gram may be selected for advancement con-  
sistent with the project selection requirements.

“(F) MAJOR AMENDMENTS.—Major  
amendments to the list described in subpara-  
graph (E), including the addition, deletion, or  
concept and scope change of a regionally signifi-  
cant project, may not be advanced without—

“(i) appropriate public involvement;

“(ii) financial planning;

“(iii) transportation conformity anal-  
yses; and

“(iv) a finding by the Federal High-  
way Administration and Federal Transit  
Administration that the amended plan was  
produced in a manner consistent with this  
section.

“(2) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER CHAPTER 1 OF  
TITLE 23 AND THIS CHAPTER.—A transpor-  
tation improvement program developed under  
this section for a metropolitan area shall in-

clude the projects and strategies within the metropolitan area that are proposed for funding under chapter 1 of title 23 and this chapter.

“(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation improvement program.

“(3) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Except as otherwise provided under subsection (k)(4), the selection of federally funded projects in metropolitan planning areas shall be carried out, from the approved transportation plan—

“(i) by the State, in the case of projects under chapter 1 of title 23 or sec-



1           tion 5308, 5310, 5311, or 5317 of this  
2           title;

3           “(ii) by the designated recipient, in  
4           the case of projects under section 5307;  
5           and

6           “(iii) in cooperation with the metro-  
7           politan planning organization.

8           “(B) MODIFICATIONS TO PROJECT PRI-  
9           ORITY.—Notwithstanding any other provision of  
10          law, a project may be advanced from the trans-  
11          portation improvement program in place of an-  
12          other project in the same transportation im-  
13          provement program without the approval of the  
14          Secretary.

15          “(4) PUBLICATION REQUIREMENTS.—

16               “(A) PUBLICATION OF TRANSPORTATION  
17          IMPROVEMENT PROGRAM.—A transportation  
18          improvement program involving Federal partici-  
19          pation shall be published or otherwise made  
20          readily available by the metropolitan planning  
21          organization for public review, including, to the  
22          maximum extent practicable, in electronically  
23          accessible formats and means, such as the  
24          World Wide Web.

1           “(B) PUBLICATION OF ANNUAL LISTINGS  
2           OF PROJECTS.—An annual listing of projects,  
3           including investments in pedestrian walkways  
4           and bicycle transportation facilities, for which  
5           Federal funds have been obligated in the pre-  
6           ceding 4 years shall be published or otherwise  
7           made available for public review by the coopera-  
8           tive effort of the State, transit operator, and  
9           the metropolitan planning organization. This  
10          listing shall be consistent with the funding cat-  
11          egories identified in the transportation improve-  
12          ment program.

13          “(C) RULEMAKING.—Not later than 120  
14          days after the date of enactment of the Federal  
15          Public Transportation Act of 2005, the Sec-  
16          retary shall issue regulations specifying—

17                 “(i) the types of data to be included  
18                 in the list described in subparagraph (B),  
19                 including—

20                         “(I) the name, type, purpose, and  
21                         geocoded location of each project;

22                         “(II) the Federal, State, and  
23                         local identification numbers assigned  
24                         to each project;

1 “(III) amounts obligated and ex-  
 2 pended on each project, sorted by  
 3 funding source and transportation  
 4 mode, and the date on which each ob-  
 5 ligation was made; and

6 “(IV) the status of each project;  
 7 and

8 “(ii) the media through which the list  
 9 described in subparagraph (B) will be  
 10 made available to the public, including  
 11 written and visual components for each of  
 12 the projects listed.

13 “(k) TRANSPORTATION MANAGEMENT AREAS.—

14 “(1) REQUIRED IDENTIFICATION.—The Sec-  
 15 retary shall identify each urbanized area with a pop-  
 16 ulation of more than 200,000 individuals as a trans-  
 17 portation management area.

18 “(2) TRANSPORTATION PLANS AND PRO-  
 19 GRAMS.—Transportation plans and programs for a  
 20 metropolitan planning area serving a transportation  
 21 management area shall be based on a continuing  
 22 and comprehensive transportation planning process  
 23 carried out by the metropolitan planning organiza-  
 24 tion in cooperation with the State and transit opera-  
 25 tors.

1 “(3) CONGESTION MANAGEMENT SYSTEM.—

2 “(A) IN GENERAL.—The transportation  
3 planning process under this section shall ad-  
4 dress congestion management through a process  
5 that provides for effective management and op-  
6 eration, based on a cooperatively developed and  
7 implemented metropolitan-wide strategy, of new  
8 and existing transportation facilities eligible for  
9 funding under title 23 and this chapter through  
10 the use of travel demand reduction and oper-  
11 ational management strategies.

12 “(B) PHASE-IN SCHEDULE.—The Sec-  
13 retary shall establish a phase-in schedule that  
14 provides for full compliance with the require-  
15 ments of this section not later than 1 year after  
16 the identification of transportation management  
17 areas under paragraph (1).

18 “(4) SELECTION OF PROJECTS.—

19 “(A) IN GENERAL.—All federally funded  
20 projects carried out within the boundaries of a  
21 metropolitan planning area serving a transpor-  
22 tation management area under title 23 (except  
23 for projects carried out on the National High-  
24 way System and projects carried out under the  
25 bridge program or the interstate maintenance

program) or under this chapter shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects on the National Highway System carried out within the boundaries of a metropolitan planning area serving a transportation management area and projects carried out within such boundaries under the bridge program or the interstate maintenance program under title 23 shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

“(5) CERTIFICATION.—

“(A) IN GENERAL.—The Secretary shall—

“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with Federal law; and

“(ii) subject to subparagraph (B), certify, not less frequently than once every 4 years in nonattainment and maintenance areas (as defined under the Clean Air Act) and not less frequently than once every 5 years in attainment areas (as defined under such Act), that the requirements of this paragraph are met with respect to the metropolitan planning process.

“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

“(i) the transportation planning process complies with the requirements of this section and all other applicable Federal law; and

“(ii) a transportation plan and a transportation improvement program for the metropolitan planning area have been approved by the metropolitan planning organization and the Governor.

“(C) PENALTY FOR FAILING TO CERTIFY.—

“(i) WITHHOLDING PROJECT FUNDS.—If the metropolitan planning

process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold any funds otherwise available to the metropolitan planning area for projects funded under title 23 and this chapter.

“(ii) RESTORATION OF WITHHELD FUNDS.—Any funds withheld under clause (i) shall be restored to the metropolitan planning area when the metropolitan planning process is certified by the Secretary.

“(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

“(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—

“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and transportation improvement program for the metropolitan planning area that the Secretary determines is ap-

1       appropriate to achieve the purposes of this section,  
2       after considering the complexity of transportation  
3       problems in the area.

4               “(2) NONATTAINMENT AREAS.—The Secretary  
5       may not permit abbreviated plans for a metropolitan  
6       area that is in nonattainment for ozone or carbon  
7       monoxide under the Clean Air Act (42 U.S.C. 7401  
8       et seq.).

9               “(m) ADDITIONAL REQUIREMENTS FOR CERTAIN  
10      NONATTAINMENT AREAS.—

11              “(1) IN GENERAL.—Notwithstanding any other  
12      provisions of title 23 or this chapter, Federal funds  
13      may not be advanced for transportation management  
14      areas classified as nonattainment for ozone or car-  
15      bon monoxide pursuant to the Clean Air Act (42  
16      U.S.C. 7401 et seq.) for any highway project that  
17      will result in a significant increase in carrying ca-  
18      pacity for single-occupant vehicles unless the project  
19      is addressed through a congestion management proc-  
20      ess.

21              “(2) APPLICABILITY.—This subsection applies  
22      to any nonattainment area within the metropolitan  
23      planning area boundaries determined under sub-  
24      section (d).



1       “(n) LIMITATION ON STATUTORY CONSTRUCTION.—  
 2 Nothing in this section shall be construed to confer on  
 3 a metropolitan planning organization the authority to im-  
 4 pose legal requirements on any transportation facility,  
 5 provider, or project that is not eligible under title 23 or  
 6 this chapter.

7       “(o) AVAILABILITY OF FUNDS.—Funds set aside  
 8 under section 104(f) of title 23 or section 5308 of this  
 9 title shall be available to carry out this section.

10       “(p) CONTINUATION OF CURRENT REVIEW PRAC-  
 11 TICE.—Any decision by the Secretary concerning a plan  
 12 or program described in this section shall not be consid-  
 13 ered to be a Federal action subject to review under the  
 14 National Environmental Policy Act of 1969 (42 U.S.C.  
 15 4321 et seq.).”.

16 **SEC. 6. STATEWIDE TRANSPORTATION PLANNING.**

17       Section 5304 is amended to read as follows:

18 **“§ 5304. Statewide transportation planning**

19       “(a) GENERAL REQUIREMENTS.—

20               “(1) DEVELOPMENT OF PLANS AND PRO-  
 21 GRAMS.—To support the policies described in section  
 22 5301(a), each State shall develop a statewide trans-  
 23 portation plan (referred to in this section as a  
 24 “Plan”) and a statewide transportation improvement  
 25 program (referred to in this section as a “Pro-

1       gram”) for all areas of the State subject to section  
2       5303.

3           “(2) CONTENTS.—The Plan and the Program  
4       developed for each State shall provide for the devel-  
5       opment and integrated management and operation  
6       of transportation systems and facilities (including  
7       pedestrian walkways and bicycle transportation fa-  
8       cilities) that will function as an intermodal transpor-  
9       tation system for the State and an integral part of  
10      an intermodal transportation system for the United  
11      States.

12          “(3) PROCESS OF DEVELOPMENT.—The process  
13      for developing the Plan and the Program shall—

14           “(A) provide for the consideration of all  
15           modes of transportation and the policies de-  
16           scribed in section 5301(a); and

17           “(B) be continuing, cooperative, and com-  
18           prehensive to the degree appropriate, based on  
19           the complexity of the transportation problems  
20           to be addressed.

21          “(b) COORDINATION WITH METROPOLITAN PLAN-  
22      NING; STATE IMPLEMENTATION PLAN.—Each State  
23      shall—

24           “(1) coordinate planning under this section  
25      with—

1           “(A) the transportation planning activities  
2           under section 5303 for metropolitan areas of  
3           the State; and

4           “(B) other related statewide planning ac-  
5           tivities, including trade and economic develop-  
6           ment and related multistate planning efforts;  
7           and

8           “(2) develop the transportation portion of the  
9           State implementation plan, as required by the Clean  
10          Air Act (42 U.S.C. 7401 et seq.).

11          “(c) INTERSTATE AGREEMENTS.—States may enter  
12          into agreements or compacts with other States for cooper-  
13          ative efforts and mutual assistance in support of activities  
14          authorized under this section related to interstate areas  
15          and localities in the States and establishing authorities the  
16          States consider desirable for making the agreements and  
17          compacts effective.

18          “(d) SCOPE OF PLANNING PROCESS.—

19                 “(1) IN GENERAL.—Each State shall carry out  
20                 a statewide transportation planning process that  
21                 provides for the consideration of projects, strategies,  
22                 and implementing projects and services that will—

23                         “(A) support the economic vitality of the  
24                         United States, the States, nonmetropolitan  
25                         areas, and metropolitan areas, especially by en-

1           abling global competitiveness, productivity, and  
2           efficiency;

3           “(B) increase the safety of the transpor-  
4           tation system for motorized and nonmotorized  
5           users;

6           “(C) increase the security of the transpor-  
7           tation system for motorized and nonmotorized  
8           users;

9           “(D) increase the accessibility and mobility  
10          of people and freight;

11          “(E) protect and enhance the environment  
12          (including the protection of habitat, water qual-  
13          ity, and agricultural and forest land, while  
14          minimizing invasive species), promote energy  
15          conservation, promote consistency between  
16          transportation improvements and State and  
17          local land use planning and economic develop-  
18          ment patterns, and improve the quality of life  
19          (including minimizing adverse health effects  
20          from mobile source air pollution and promoting  
21          the linkage of the transportation and develop-  
22          ment goals of the State);

23          “(F) enhance the integration and  
24          connectivity of the transportation system,

1 across and between modes throughout the  
 2 State, for people and freight;

3 “(G) promote efficient system management  
 4 and operation; and

5 “(H) emphasize the preservation and effi-  
 6 cient use of the existing transportation system.

7 “(2) SELECTION OF PROJECTS AND STRATE-  
 8 GIES.—After soliciting and considering any relevant  
 9 public comments, the State shall determine which of  
 10 the projects and strategies described in paragraph  
 11 (1) are most appropriate.

12 “(3) MITIGATION ACTIVITIES.—

13 “(A) IN GENERAL.—A transportation plan  
 14 under this subsection shall include a discussion  
 15 of—

16 “(i) types of potential habitat,  
 17 hydrological, and environmental mitigation  
 18 activities that may assist in compensating  
 19 for loss of habitat, wetland, and other envi-  
 20 ronmental functions; and

21 “(ii) potential areas to carry out these  
 22 activities, including a discussion of areas  
 23 that may have the greatest potential to re-  
 24 store and maintain the habitat types and

1 hydrological or environmental functions af-  
2 fected by the plan.

3 “(B) CONSULTATION.—The discussion de-  
4 scribed in subparagraph (A) shall be developed  
5 in consultation with Federal and State tribal  
6 wildlife, land management, and regulatory  
7 agencies.

8 “(4) FAILURE TO CONSIDER FACTORS.—The  
9 failure to consider any factor described in paragraph  
10 (1) shall not be reviewable by any court under title  
11 23, this title, subchapter II of chapter 5 of title 5,  
12 or chapter 7 of title 5 in any matter affecting a  
13 Plan, a Program, a project or strategy, or the cer-  
14 tification of a planning process.

15 “(e) ADDITIONAL REQUIREMENTS.—In carrying out  
16 planning under this section, each State shall consider—

17 “(1) with respect to nonmetropolitan areas, the  
18 concerns of affected local officials with responsibility  
19 for transportation;

20 “(2) the concerns of Indian tribal governments  
21 and Federal land management agencies that have  
22 jurisdiction over land within the boundaries of the  
23 State; and

24 “(3) coordination of Plans, Programs, and  
25 planning activities with related planning activities

1 being carried out outside of metropolitan planning  
2 areas and between States.

3 “(f) STATEWIDE TRANSPORTATION PLAN.—

4 “(1) DEVELOPMENT.—Each State shall develop  
5 a Plan, with a minimum 20-year forecast period for  
6 all areas of the State, that provides for the develop-  
7 ment and implementation of the intermodal trans-  
8 portation system of the State.

9 “(2) CONSULTATION WITH GOVERNMENTS.—

10 “(A) METROPOLITAN PLANNING AREAS.—

11 The Plan shall be developed for each metropoli-  
12 tan planning area in the State in cooperation  
13 with the metropolitan planning organization  
14 designated for the metropolitan planning area  
15 under section 5303.

16 “(B) NONMETROPOLITAN AREAS.—With  
17 respect to nonmetropolitan areas, the statewide  
18 transportation plan shall be developed in con-  
19 sultation with affected nonmetropolitan officials  
20 with responsibility for transportation. The con-  
21 sultation process shall not require the review or  
22 approval of the Secretary.

23 “(C) INDIAN TRIBAL AREAS.—With respect  
24 to each area of the State under the jurisdiction  
25 of an Indian tribal government, the Plan shall

1 be developed in consultation with the tribal gov-  
 2 ernment and the Secretary of the Interior.

3 “(D) CONSULTATION, COMPARISON, AND  
 4 CONSIDERATION.—

5 “(i) IN GENERAL.—The Plan shall be  
 6 developed, as appropriate, in consultation  
 7 with State and local agencies responsible  
 8 for—

9 “(I) land use management;

10 “(II) natural resources;

11 “(III) environmental protection;

12 “(IV) conservation; and

13 “(V) historic preservation.

14 “(ii) COMPARISON AND CONSIDER-  
 15 ATION.—Consultation under clause (i)  
 16 shall involve—

17 “(I) comparison of transportation  
 18 plans to State conservation plans or  
 19 maps, if available;

20 “(II) comparison of transpor-  
 21 tation plans to inventories of natural  
 22 or historic resources, if available; or

23 “(III) consideration of areas  
 24 where wildlife crossing structures may



1 be needed to ensure connectivity be-  
 2 tween wildlife habitat linkage areas.

3 “(3) PARTICIPATION BY INTERESTED PAR-  
 4 TIES.—In developing the Plan, the State shall—

5 “(A) provide citizens, affected public agen-  
 6 cies, representatives of public transportation  
 7 employees, freight shippers, private providers of  
 8 transportation, representatives of users of pub-  
 9 lic transportation, representatives of users of  
 10 pedestrian walkways and bicycle transportation  
 11 facilities, providers of freight transportation  
 12 services, and other interested parties with a  
 13 reasonable opportunity to comment on the pro-  
 14 posed Plan; and

15 “(B) to the maximum extent practicable—

16 “(i) hold any public meetings at con-  
 17 venient and accessible locations and times;

18 “(ii) employ visualization techniques  
 19 to describe plans; and

20 “(iii) make public information avail-  
 21 able in electronically accessible format and  
 22 means, such as the World Wide Web.

23 “(4) MITIGATION ACTIVITIES.—

24 “(A) IN GENERAL.—A Plan shall include a  
 25 discussion of—

1                   “(i) types of potential habitat,  
2                   hydrological, and environmental mitigation  
3                   activities that may assist in compensating  
4                   for loss of habitat, wetlands, and other en-  
5                   vironmental functions; and

6                   “(ii) potential areas to carry out these  
7                   activities, including a discussion of areas  
8                   that may have the greatest potential to re-  
9                   store and maintain the habitat types and  
10                  hydrological or environmental functions af-  
11                  fected by the plan.

12                  “(B) CONSULTATION.—The discussion de-  
13                  scribed in subparagraph (A) shall be developed  
14                  in consultation with Federal and State tribal  
15                  wildlife, land management, and regulatory  
16                  agencies.

17                  “(5) TRANSPORTATION STRATEGIES.—A Plan  
18                  shall identify transportation strategies necessary to  
19                  efficiently serve the mobility needs of people.

20                  “(6) FINANCIAL PLAN.—The Plan may include  
21                  a financial plan that—

22                         “(A) demonstrates how the adopted Plan  
23                         can be implemented;

1           “(B) indicates resources from public and  
 2           private sources that are reasonably expected to  
 3           be made available to carry out the Plan;

4           “(C) recommends any additional financing  
 5           strategies for needed projects and programs;  
 6           and

7           “(D) may include, for illustrative purposes,  
 8           additional projects that would be included in  
 9           the adopted Plan if reasonable additional re-  
 10          sources beyond those identified in the financial  
 11          plan were available.

12          “(7) SELECTION OF PROJECTS FROM ILLUS-  
 13          TRATIVE LIST.—A State shall not be required to se-  
 14          lect any project from the illustrative list of addi-  
 15          tional projects described in paragraph (6)(D).

16          “(8) EXISTING SYSTEM.—The Plan should in-  
 17          clude capital, operations and management strategies,  
 18          investments, procedures, and other measures to en-  
 19          sure the preservation and most efficient use of the  
 20          existing transportation system.

21          “(9) PUBLICATION OF LONG-RANGE TRANSPOR-  
 22          TATION PLANS.—Each Plan prepared by a State  
 23          shall be published or otherwise made available, in-  
 24          cluding, to the maximum extent practicable, in elec-

1       tronically accessible formats and means, such as the  
2       World Wide Web.

3       “(g) STATEWIDE TRANSPORTATION IMPROVEMENT  
4 PROGRAM.—

5           “(1) DEVELOPMENT.—Each State shall develop  
6 a Program for all areas of the State.

7           “(2) CONSULTATION WITH GOVERNMENTS.—

8           “(A) METROPOLITAN PLANNING AREAS.—

9       With respect to each metropolitan planning  
10 area in the State, the Program shall be devel-  
11 oped in cooperation with the metropolitan plan-  
12 ning organization designated for the metropoli-  
13 tan planning area under section 5303.

14          “(B) NONMETROPOLITAN AREAS.—With  
15 respect to each nonmetropolitan area in the  
16 State, the Program shall be developed in con-  
17 sultation with affected nonmetropolitan local of-  
18 ficials with responsibility for transportation.  
19 The consultation process shall not require the  
20 review or approval of the Secretary.

21          “(C) INDIAN TRIBAL AREAS.—With respect  
22 to each area of the State under the jurisdiction  
23 of an Indian tribal government, the Program  
24 shall be developed in consultation with the trib-  
25 al government and the Secretary of the Interior.

1           “(3) PARTICIPATION BY INTERESTED PAR-  
 2           TIES.—In developing the Program, the State shall  
 3           provide citizens, affected public agencies, representa-  
 4           tives of public transportation employees, freight  
 5           shippers, private providers of transportation, pro-  
 6           viders of freight transportation services, representa-  
 7           tives of users of public transit, representatives of  
 8           users of pedestrian walkways and bicycle transpor-  
 9           tation facilities, and other interested parties with a  
 10          reasonable opportunity to comment on the proposed  
 11          Program.

12           “(4) INCLUDED PROJECTS.—

13           “(A) IN GENERAL.—A Program developed  
 14           under this subsection for a State shall include  
 15           federally supported surface transportation ex-  
 16           penditures within the boundaries of the State.

17           “(B) LISTING OF PROJECTS.—

18           “(i) IN GENERAL.—The Program  
 19           shall cover a minimum of 4 years, identify  
 20           projects by year, be fiscally constrained by  
 21           year, and be updated not less than once  
 22           every 4 years.

23           “(ii) PUBLICATION.—An annual list-  
 24           ing of projects for which funds have been  
 25           obligated in the preceding 4 years in each

metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.

“(C) INDIVIDUAL IDENTIFICATION.—

“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.

“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project included in the list described in subparagraph (B) shall be—

“(i) consistent with the Plan developed under this section for the State;

1 “(ii) identical to the project or phase  
2 of the project as described in each year of  
3 the approved metropolitan transportation  
4 improvement program; and

5 “(iii) in conformance with the applica-  
6 ble State air quality implementation plan  
7 developed under the Clean Air Act (42  
8 U.S.C. 7401 et seq.), if the project is car-  
9 ried out in an area designated as non-  
10 attainment for ozone or carbon monoxide  
11 under that Act.

12 “(E) REQUIREMENT OF ANTICIPATED  
13 FULL FUNDING.—The Program shall not in-  
14 clude a project, or an identified phase of a  
15 project, unless full funding can reasonably be  
16 anticipated to be available for the project within  
17 the time period contemplated for completion of  
18 the project.

19 “(F) FINANCIAL PLAN.—The Program  
20 may include a financial plan that—

21 “(i) demonstrates how the approved  
22 Program can be implemented;

23 “(ii) indicates resources from public  
24 and private sources that are reasonably ex-

pected to be made available to carry out  
the Program;

“(iii) recommends any additional financing strategies for needed projects and programs; and

“(iv) may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects described in subparagraph (F)(iv).

“(ii) REQUIRED APPROVAL BY THE SECRETARY.—A State shall not include any project from the illustrative list of additional projects described in subparagraph (F)(iv) in an approved Program without the approval of the Secretary.



1           “(H) PRIORITIES.—The Program shall re-  
2           flect the priorities for programming and ex-  
3           penditures of funds, including transportation  
4           and transit enhancement activities, required by  
5           title 23 and this chapter, and transportation  
6           control measures included in the State’s air  
7           quality implementation plan.

8           “(5) PROJECT SELECTION FOR AREAS WITH  
9           FEWER THAN 50,000 INDIVIDUALS.—

10           “(A) IN GENERAL.—Each State, in co-  
11           operation with the affected nonmetropolitan  
12           local officials with responsibility for transpor-  
13           tation, shall select projects to be carried out in  
14           areas with fewer than 50,000 individuals from  
15           the approved Program (excluding projects car-  
16           ried out under the National Highway System,  
17           the bridge program, or the interstate mainte-  
18           nance program under title 23 or sections 5310  
19           and 5311 of this title).

20           “(B) CERTAIN PROGRAMS.—Each State, in  
21           consultation with the affected nonmetropolitan  
22           local officials with responsibility for transpor-  
23           tation, shall select, from the approved Program,  
24           projects to be carried out in areas with fewer  
25           than 50,000 individuals under the National

1 Highway System, the bridge program, or the  
2 Interstate maintenance program under title 23  
3 or under sections 5310 and 5311 of this title.

4 “(6) STATEWIDE TRANSPORTATION IMPROVE-  
5 MENT PROGRAM APPROVAL.—A Program developed  
6 under this subsection shall be reviewed and based on  
7 a current planning finding approved by the Sec-  
8 retary not less frequently than once every 4 years.

9 “(7) PLANNING FINDING.—Not less frequently  
10 than once every 4 years, the Secretary shall deter-  
11 mine whether the transportation planning process  
12 through which Plans and Programs are developed  
13 are consistent with this section and section 5303.

14 “(8) MODIFICATIONS TO PROJECT PRIORITY.—  
15 Notwithstanding any other provision of law, a  
16 project included in the approved Program may be  
17 advanced in place of another project in the program  
18 without the approval of the Secretary.

19 “(h) FUNDING.—Funds set aside pursuant to section  
20 104(i) of title 23 and section 5308 of this title shall be  
21 available to carry out this section.

22 “(i) TREATMENT OF CERTAIN STATE LAWS AS CON-  
23 GESTION MANAGEMENT SYSTEMS.—For purposes of this  
24 section and section 5303, State laws, rules, or regulations  
25 pertaining to congestion management systems or pro-

1 grams may constitute the congestion management system  
 2 under section 5303(i)(3) if the Secretary determines that  
 3 the State laws, rules, or regulations are consistent with,  
 4 and fulfill the intent of, the purposes of section 5303.

5 “(j) CONTINUATION OF CURRENT REVIEW PRAC-  
 6 TICE.—Any decision by the Secretary under this section,  
 7 regarding a metropolitan or statewide transportation plan  
 8 or the Program, shall not be considered to be a Federal  
 9 action subject to review under the National Environmental  
 10 Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

11 **SEC. 7. TRANSPORTATION MANAGEMENT AREAS.**

12 Section 5305 is repealed.

13 **SEC. 8. PRIVATE ENTERPRISE PARTICIPATION.**

14 Section 5306 is amended—

15 (1) in subsection (a)—

16 (A) by striking “5305 of this title” and in-  
 17 serting “5308”; and

18 (B) by inserting “, as determined by local  
 19 policies, criteria, and decision making,” after  
 20 “feasible”;

21 (2) in subsection (b) by striking “5303–5305 of  
 22 this title” and inserting “5303, 5304, and 5308”;  
 23 and

24 (3) by adding at the end the following:

1       “(c) REGULATIONS.—Not later than 1 year after the  
 2 date of enactment of the Federal Public Transportation  
 3 Act of 2005, the Secretary shall issue regulations describ-  
 4 ing how the requirements under this chapter relating to  
 5 subsection (a) shall be enforced.”.

6 **SEC. 9. URBANIZED AREA FORMULA GRANTS.**

7       (a) TECHNICAL AMENDMENTS.—Section 5307 is  
 8 amended—

9           (1) by striking subsections (h), (j) and (k); and

10           (2) by redesignating subsections (i), (l), (m),  
 11 and (n) as subsections (h), (i), (j), and (k), respec-  
 12 tively.

13       (b) DEFINITIONS.—Section 5307(a) is amended—

14           (1) by amending paragraph (2)(A) to read as  
 15 follows:

16           “(A) an entity designated, in accordance  
 17 with the planning process under sections 5303,  
 18 5304, and 5306, by the chief executive officer  
 19 of a State, responsible local officials, and pub-  
 20 licly owned operators of public transportation,  
 21 to receive and apportion amounts under section  
 22 5336 that are attributable to transportation  
 23 management areas designated under section  
 24 5303; or”; and

25           (2) by adding at the end the following:

1           “(3) SUBRECIPIENT.—The term ‘subrecipient’  
 2       means a State or local governmental authority, a  
 3       nonprofit organization, or a private operator of pub-  
 4       lic transportation service that may receive a Federal  
 5       transit program grant indirectly through a recipient,  
 6       rather than directly from the Federal Government.”.

7       (c) GENERAL AUTHORITY.—Section 5307(b) is  
 8       amended—

9           (1) by amending paragraph (1) to read as fol-  
 10      lows:

11           “(1) IN GENERAL.—The Secretary of Transpor-  
 12      tation may award grants under this section for—

13           “(A) capital projects, including associated  
 14      capital maintenance items;

15           “(B) planning, including mobility manage-  
 16      ment;

17           “(C) transit enhancements;

18           “(D) operating costs of equipment and fa-  
 19      cilities for use in public transportation in an ur-  
 20      banized area with a population of less than  
 21      200,000; and

22           “(E) operating costs of equipment and fa-  
 23      cilities for use in public transportation in a por-  
 24      tion or portions of an urbanized area with a

1 population of at least 200,000, but not more  
2 than 225,000, if—

3 “(i) the urbanized area includes parts  
4 of more than 1 State;

5 “(ii) the portion of the urbanized area  
6 includes only 1 State;

7 “(iii) the population of the portion of  
8 the urbanized area is less than 30,000; and

9 “(iv) the grants will not be used to  
10 provide public transportation outside of the  
11 portion of the urbanized area.”;

12 (2) by amending paragraph (2) to read as fol-  
13 lows:

14 “(2) SPECIAL RULE FOR FISCAL YEARS 2005  
15 THROUGH 2007.—

16 “(A) INCREASED FLEXIBILITY.—The Sec-  
17 retary may award grants under this section,  
18 from funds made available to carry out this sec-  
19 tion for each of the fiscal years 2005 through  
20 2007, to finance the operating cost of equip-  
21 ment and facilities for use in mass transpor-  
22 tation in an urbanized area with a population of  
23 at least 200,000, as determined by the 2000 de-  
24 cennial census of population if—

1 “(i) the urbanized area had a popu-  
2 lation of less than 200,000, as determined  
3 by the 1990 decennial census of popu-  
4 lation;

5 “(ii) a portion of the urbanized area  
6 was a separate urbanized area with a pop-  
7 ulation of less than 200,000, as deter-  
8 mined by the 1990 decennial census of  
9 population;

10 “(iii) the area was not designated as  
11 an urbanized area, as determined by the  
12 1990 decennial census of population; or

13 “(iv) a portion of the area was not  
14 designated as an urbanized area, as deter-  
15 mined by the 1990 decennial census, and  
16 received assistance under section 5311 in  
17 fiscal year 2002.

18 “(B) MAXIMUM AMOUNTS IN FISCAL YEAR  
19 2005.—In fiscal year 2005—

20 “(i) amounts made available to any  
21 urbanized area under clause (i) or (ii) of  
22 subparagraph (A) shall be not more than  
23 the amount apportioned in fiscal year 2002  
24 to the urbanized area with a population of

1 less than 200,000, as determined in the  
2 1990 decennial census of population;

3 “(ii) amounts made available to any  
4 urbanized area under subparagraph (A)(iii)  
5 shall be not more than the amount appor-  
6 tioned to the urbanized area under this  
7 section for fiscal year 2003; and

8 “(iii) each portion of any area not  
9 designated as an urbanized area, as deter-  
10 mined by the 1990 decennial census, and  
11 eligible to receive funds under subpara-  
12 graph (A)(iv), shall receive an amount of  
13 funds to carry out this section that is not  
14 less than the amount the portion of the  
15 area received under section 5311 for fiscal  
16 year 2002.

17 “(C) MAXIMUM AMOUNTS IN FISCAL YEAR  
18 2006.—In fiscal year 2006—

19 “(i) amounts made available to any  
20 urbanized area under clause (i) or (ii) of  
21 subparagraph (A) shall be not more than  
22 50 percent of the amount apportioned in  
23 fiscal year 2002 to the urbanized area with  
24 a population of less than 200,000, as de-



1           terminated in the 1990 decennial census of  
2           population;

3           “(ii) amounts made available to any  
4           urbanized area under subparagraph (A)(iii)  
5           shall be not more than 50 percent of the  
6           amount apportioned to the urbanized area  
7           under this section for fiscal year 2003; and

8           “(iii) each portion of any area not  
9           designated as an urbanized area, as deter-  
10          mined by the 1990 decennial census, and  
11          eligible to receive funds under subpara-  
12          graph (A)(iv), shall receive an amount of  
13          funds to carry out this section that is not  
14          less 50 percent of the amount the portion  
15          of the area received under section 5311 for  
16          fiscal year 2002.

17          “(D) MAXIMUM AMOUNTS IN FISCAL YEAR  
18          2007.—In fiscal year 2007—

19               “(i) amounts made available to any  
20               urbanized area under clause (i) or (ii) of  
21               subparagraph (A) shall be not more than  
22               25 percent of the amount apportioned in  
23               fiscal year 2002 to the urbanized area with  
24               a population of less than 200,000, as de-

1           terminated in the 1990 decennial census of  
2           population;

3           “(ii) amounts made available to any  
4           urbanized area under subparagraph (A)(iii)  
5           shall be not more than 25 percent of the  
6           amount apportioned to the urbanized area  
7           under this section for fiscal year 2003; and

8           “(iii) each portion of any area not  
9           designated as an urbanized area, as deter-  
10          mined by the 1990 decennial census, and  
11          eligible to receive funds under subpara-  
12          graph (A)(iv), shall receive an amount of  
13          funds to carry out this section that is not  
14          less than 25 percent of the amount the  
15          portion of the area received under section  
16          5311 in fiscal year 2002.”; and

17          (3) by striking paragraph (4).

18          (d) GRANT RECIPIENT REQUIREMENTS.—Section  
19          5307(d)(1) is amended—

20               (1) in subparagraph (A), by inserting “, includ-  
21               ing safety and security aspects of the program”  
22               after “program”;

23               (2) in subparagraph (E), by striking “section”  
24               and all that follows and inserting “section, the re-  
25               cipient will comply with sections 5323 and 5325;”;

1           (3) in subparagraph (H), by striking “sections  
2       5301(a) and (d), 5303-5306, and 5310(a)-(d) of this  
3       title” and inserting “subsections (a) and (d) of sec-  
4       tion 5301 and sections 5303 through 5306”;

5           (4) in subparagraph (I) by striking “and” at  
6       the end;

7           (5) in subparagraph (J), by striking the period  
8       at the end and inserting “; and”; and

9           (6) by adding at the end the following:

10           “(K) if located in an urbanized area with  
11       a population of at least 200,000, will expend  
12       not less than 1 percent of the amount the re-  
13       cipient receives each fiscal year under this sec-  
14       tion for transit enhancement activities described  
15       in section 5302(a)(15).”.

16       (e) GOVERNMENT’S SHARE OF COSTS.—Section  
17   5307(e) is amended—

18           (1) by striking the first sentence and inserting  
19       the following:

20           “(1) CAPITAL PROJECTS.—A grant for a capital  
21       project under this section shall cover 80 percent of  
22       the net project cost.”;

23           (2) by striking “A grant for operating ex-  
24       penses” and inserting the following:

1           “(2) OPERATING EXPENSES.—A grant for oper-  
2     ating expenses”;

3           (3) by striking the fourth sentence and insert-  
4     ing the following:

5           “(3) REMAINING COSTS.—The remainder of the  
6     net project cost shall be provided in cash from non-  
7     Federal sources or revenues derived from the sale of  
8     advertising and concessions and amounts received  
9     under a service agreement with a State or local so-  
10    cial service agency or a private social service organi-  
11    zation.”; and

12          (4) by adding at the end the following: “The  
13    prohibitions on the use of funds for matching re-  
14    quirements under section 403(a)(5)(C)(vii) of the  
15    Social Security Act (42 U.S.C. 603(a)(5)(C)(vii))  
16    shall not apply to the remainder.”.

17          (f) UNDERTAKING PROJECTS IN ADVANCE.—Section  
18    5307(g) is amended by striking paragraph (4).

19          (g) RELATIONSHIP TO OTHER LAWS.—Section  
20    5307(k), as redesignated, is amended to read as follows:

21          “(k) RELATIONSHIP TO OTHER LAWS.—

22               “(1) APPLICABLE PROVISIONS.—Sections 5301,  
23     5302, 5303, 5304, 5306, 5315(c), 5318, 5319,  
24     5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333

1       and 5335 apply to this section and to any grant  
2       made under this section.

3           “(2) INAPPLICABLE PROVISIONS.—

4               “(A) IN GENERAL.—Except as provided  
5       under this section, no other provision of this  
6       chapter applies to this section or to a grant  
7       made under this section.

8               “(B) TITLE 5.—The provision of assist-  
9       ance under this chapter shall not be construed  
10      as bringing within the application of chapter 15  
11      of title 5, any nonsupervisory employee of a  
12      public transportation system (or any other  
13      agency or entity performing related functions)  
14      to which such chapter is otherwise inappli-  
15      cable.”.

16 **SEC. 10. PLANNING PROGRAMS.**

17       (a) IN GENERAL.—Section 5308 is amended to read  
18 as follows:

19 **“§ 5308. Planning programs**

20       “(a) GRANTS AUTHORIZED.—Under criteria estab-  
21 lished by the Secretary, the Secretary may award grants  
22 to States, authorities of the States, metropolitan planning  
23 organizations, and local governmental authorities, make  
24 agreements with other departments, agencies, or instru-

1 mentalities of the Government, or enter into contracts  
2 with private nonprofit or for-profit entities to—

3 “(1) develop transportation plans and pro-  
4 grams;

5 “(2) plan, engineer, design, and evaluate a pub-  
6 lic transportation project; or

7 “(3) conduct technical studies relating to public  
8 transportation, including—

9 “(A) studies related to management, plan-  
10 ning, operations, capital requirements, and eco-  
11 nomic feasibility;

12 “(B) evaluations of previously financed  
13 projects;

14 “(C) peer reviews and exchanges of tech-  
15 nical data, information, assistance, and related  
16 activities in support of planning and environ-  
17 mental analyses among metropolitan planning  
18 organizations and other transportation plan-  
19 ners; and

20 “(D) other similar and related activities  
21 preliminary to, and in preparation for, con-  
22 structing, acquiring, or improving the operation  
23 of facilities and equipment.

24 “(b) PURPOSE.—To the extent practicable, the Sec-  
25 retary shall ensure that amounts appropriated pursuant

1 to section 5338 to carry out this section and sections  
 2 5303, 5304, and 5306 are used to support balanced and  
 3 comprehensive transportation planning that considers the  
 4 relationships among land use and all transportation  
 5 modes, without regard to the programmatic source of the  
 6 planning amounts.

7 “(c) METROPOLITAN PLANNING PROGRAM.—

8 “(1) ALLOCATIONS TO STATES.—

9 “(A) IN GENERAL.—The Secretary shall  
 10 allocate 80 percent of the amount made avail-  
 11 able under subsection (g)(3)(A) to States to  
 12 carry out sections 5303 and 5306 in a ratio  
 13 equal to the population in urbanized areas in  
 14 each State, divided by the total population in  
 15 urbanized areas in all States, as shown by the  
 16 latest available decennial census of population.

17 “(B) MINIMUM ALLOCATION.—Each State  
 18 shall receive not less than 0.5 percent of the  
 19 total amount allocated under this paragraph.

20 “(2) AVAILABILITY OF FUNDS.—A State receiv-  
 21 ing an allocation under paragraph (1) shall promptly  
 22 distribute such funds to metropolitan planning orga-  
 23 nizations in the State under a formula—

24 “(A) developed by the State in cooperation  
 25 with the metropolitan planning organizations;

1 “(B) approved by the Secretary of Trans-  
2 portation;

3 “(C) that considers population in urban-  
4 ized areas; and

5 “(D) that provides an appropriate distribu-  
6 tion for urbanized areas to carry out the coop-  
7 erative processes described in this section.

8 “(3) SUPPLEMENTAL ALLOCATIONS.—

9 “(A) IN GENERAL.—The Secretary shall  
10 allocate 20 percent of the amount made avail-  
11 able under subsection (g)(3)(A) to States to  
12 supplement allocations made under paragraph  
13 (1) for metropolitan planning organizations.

14 “(B) ALLOCATION FORMULA.—Amounts  
15 under this paragraph shall be allocated under a  
16 formula that reflects the additional cost of car-  
17 rying out planning, programming, and project  
18 selection responsibilities in complex metropoli-  
19 tan planning areas under sections 5303, 5304,  
20 and 5306.

21 “(d) STATE PLANNING AND RESEARCH PROGRAM.—

22 “(1) IN GENERAL.—The Secretary shall allo-  
23 cate amounts made available pursuant to subsection  
24 (g)(3)(B) to States for grants and contracts to carry  
25 out sections 5304, 5306, 5315, and 5322 so that



1 each State receives an amount equal to the ratio of  
 2 the population in urbanized areas in that State, di-  
 3 vided by the total population in urbanized areas in  
 4 all States, as shown by the latest available decennial  
 5 census.

6 “(2) MINIMUM ALLOCATION.—Each State shall  
 7 receive not less than 0.5 percent of the amount allo-  
 8 cated under this subsection.

9 “(3) REALLOCATION.—A State may authorize  
 10 part of the amount made available under this sub-  
 11 section to be used to supplement amounts available  
 12 under subsection (c).

13 “(e) PLANNING CAPACITY BUILDING PROGRAM.—

14 “(1) ESTABLISHMENT.—The Secretary shall es-  
 15 tablish a Planning Capacity Building Program (re-  
 16 ferred to in this subsection as the “Program”) to  
 17 support and fund innovative practices and enhance-  
 18 ments in transportation planning.

19 “(2) PURPOSE.—The purpose of the Program  
 20 shall be to promote activities that support and  
 21 strengthen the planning processes required under  
 22 this section and sections 5303 and 5304.

23 “(3) ADMINISTRATION.—The Program shall be  
 24 administered by the Federal Transit Administration

1 in cooperation with the Federal Highway Adminis-  
2 tration.

3 “(4) USE OF FUNDS.—

4 “(A) IN GENERAL.—Appropriations au-  
5 thorized under subsection (g)(1) to carry out  
6 this subsection may be used—

7 “(i) to provide incentive grants to  
8 States, metropolitan planning organiza-  
9 tions, and public transportation operators;  
10 and

11 “(ii) to conduct research, disseminate  
12 information, and provide technical assist-  
13 ance.

14 “(B) GRANTS, CONTRACTS, COOPERATIVE  
15 AGREEMENTS.—In carrying out the activities  
16 described in subparagraph (A), the Secretary  
17 may—

18 “(i) expend appropriated funds di-  
19 rectly; or

20 “(ii) award grants to, or enter into  
21 contracts, cooperative agreements, and  
22 other transactions with, a Federal agency,  
23 State agency, local governmental authority,  
24 association, nonprofit or for-profit entity,  
25 or institution of higher education.

1       “(f) GOVERNMENT’S SHARE OF COSTS.—Amounts  
 2 made available to carry out subsections (c), (d), and (e)  
 3 may not exceed 80 percent of the costs of the activity un-  
 4 less the Secretary of Transportation determines that it is  
 5 in the interest of the Government not to require State or  
 6 local matching funds.

7       “(g) ALLOCATION OF FUNDS.—Of the amounts made  
 8 available under section 5338(b)(2)(B) for fiscal year 2006  
 9 and each fiscal year thereafter to carry out this section—

10           “(1) \$5,000,000 shall be allocated for the Plan-  
 11 ning Capacity Building Program established under  
 12 subsection (e);

13           “(2) \$20,000,000 shall be allocated for grants  
 14 under subsection (a)(2) for alternatives analyses re-  
 15 quired by section 5309(e)(2)(A); and

16           “(3) of the remaining amount—

17               “(A) 82.72 percent shall be allocated for  
 18 the metropolitan planning program described in  
 19 subsection (d); and

20               “(B) 17.28 percent shall be allocated to  
 21 carry out subsection (b).

22       “(h) REALLOCATIONS.—Any amount allocated under  
 23 this section that has not been used 3 years after the end  
 24 of the fiscal year in which the amount was allocated shall  
 25 be reallocated among the States.”.

1 (b) CONFORMING AMENDMENT.—The item relating  
 2 to section 5308 in the table of sections for chapter 53 is  
 3 amended to read as follows:

“5308. Planning programs.”.

4 **SEC. 11. CAPITAL INVESTMENT PROGRAM.**

5 (a) SECTION HEADING.—The section heading of sec-  
 6 tion 5309 is amended to read as follows:

7 **“§ 5309. Capital investment grants”.**

8 (b) GENERAL AUTHORITY.—Section 5309(a) is  
 9 amended—

10 (1) in paragraph (1)—

11 (A) by striking “(1) The Secretary of  
 12 Transportation may make grants and loans”  
 13 and inserting the following:

14 “(1) GRANTS AUTHORIZED.—The Secretary  
 15 may award grants”;

16 (B) in subparagraph (A), by striking “al-  
 17 ternatives analysis related to the development of  
 18 systems,”;

19 (C) by striking subparagraphs (B), (C),  
 20 (D), and (G);

21 (D) by redesignating subparagraphs (E),  
 22 (F), and (H) as subparagraphs (B), (C), and  
 23 (D), respectively;

24 (E) in subparagraph (C), as redesignated,  
 25 by striking the semicolon at the end and insert-

ing “, including programs of bus and bus-related projects for assistance to subrecipients which are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and”; and

(F) in subparagraph (D), as redesignated—

(i) by striking “to support fixed guideway systems”; and

(ii) by striking “dedicated bus and high occupancy vehicle”;

(2) by amending paragraph (2) to read as follows:

“(2) GRANTEE REQUIREMENTS.—

“(A) GRANTEE IN URBANIZED AREA.—The Secretary shall require that any grants awarded under this section to a recipient or subrecipient located in an urbanized area shall be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

1           “(B) GRANTEE NOT IN URBANIZED  
2           AREA.—The Secretary shall require that any  
3           grants awarded under this section to a recipient  
4           or subrecipient not located in an urbanized area  
5           shall be subject to the same terms, conditions,  
6           requirements, and provisions as a recipient or  
7           subrecipient of assistance under section 5311.

8           “(C) SUBRECIPIENT.—The Secretary shall  
9           require that any private, nonprofit organization  
10          that is a subrecipient of a grant awarded under  
11          this section shall be subject to the same terms,  
12          conditions, requirements, and provisions as a  
13          subrecipient of assistance under section 5310.

14          “(D) STATEWIDE TRANSIT PROVIDER  
15          GRANTEES.—A statewide transit provider that  
16          receives a grant under this section shall be sub-  
17          ject to the terms, conditions, requirements, and  
18          provisions of this section or section 5311, con-  
19          sistent with the scope and purpose of the grant  
20          and the location of the project.”; and

21          (3) by adding at the end the following:

22          “(3) CERTIFICATION.—An applicant that has  
23          submitted the certifications required under subpara-  
24          graphs (A), (B), (C), and (H) of section 5307(d)(1)  
25          shall be deemed to have provided sufficient informa-

1       tion upon which the Secretary may make the find-  
 2       ings required under this subsection.”.

3       (c) DEFINED TERM.—Section 5309(b) is amended to  
 4       read as follows:

5       “(b) DEFINED TERM.—As used in this section, the  
 6       term ‘alternatives analysis’ means a study conducted as  
 7       part of the transportation planning process required under  
 8       sections 5303 and 5304, which includes—

9               “(1) an assessment of a wide range of public  
 10       transportation alternatives designed to address a  
 11       transportation problem in a corridor or subarea;

12              “(2) sufficient information to enable the Sec-  
 13       retary to make the findings of project justification  
 14       and local financial commitment required under this  
 15       section;

16              “(3) the selection of a locally preferred alter-  
 17       native; and

18              “(4) the adoption of the locally preferred alter-  
 19       native as part of the long-range transportation plan  
 20       required under section 5303.”.

21       (d) GRANT REQUIREMENTS.—Section 5309(d) is  
 22       amended to read as follows:

23       “(d) GRANT REQUIREMENTS.—The Secretary may  
 24       not approve a grant for a project under this section unless  
 25       the Secretary determines that—

1           “(1) the project is part of an approved trans-  
 2           portation plan and program of projects required  
 3           under sections 5303, 5304, and 5306; and

4           “(2) the applicant has, or will have—

5                   “(A) the legal, financial, and technical ca-  
 6                   pacity to carry out the project, including safety  
 7                   and security aspects of the project;

8                   “(B) satisfactory continuing control over  
 9                   the use of the equipment or facilities; and

10                   “(C) the capability and willingness to  
 11                   maintain the equipment or facilities.”.

12           (e) MAJOR CAPITAL INVESTMENT PROJECTS OF  
 13   \$75,000,000 OR MORE.—Section 5309(e) is amended to  
 14   read as follows:

15           “(e) MAJOR CAPITAL INVESTMENT PROJECTS OF  
 16   \$75,000,000 OR MORE.—

17                   “(1) FULL FUNDING GRANT AGREEMENT.—The  
 18           Secretary shall enter into a full funding grant agree-  
 19           ment, based on the evaluations and ratings required  
 20           under this subsection, with each grantee receiving  
 21           not less than \$75,000,000 under this subsection for  
 22           a new fixed guideway capital project that—

23                   “(A) is authorized for final design and  
 24                   construction; and



1           “(B) has been rated as medium, medium-  
2           high, or high, in accordance with paragraph  
3           (5)(B).

4           “(2) DETERMINATIONS.—The Secretary may  
5           not award a grant under this subsection for a new  
6           fixed guideway capital project unless the Secretary  
7           determines that the proposed project is—

8           “(A) based on the results of an alter-  
9           natives analysis and preliminary engineering;

10           “(B) justified based on a comprehensive  
11           review of its mobility improvements, environ-  
12           mental benefits, cost-effectiveness, operating ef-  
13           ficiencies, economic development effects, and  
14           public transportation supportive land use pat-  
15           terns and policies; and

16           “(C) supported by an acceptable degree of  
17           local financial commitment, including evidence  
18           of stable and dependable financing sources to  
19           construct the project, and maintain and operate  
20           the entire public transportation system, while  
21           ensuring that the extent and quality of existing  
22           public transportation services are not degraded.

23           “(3) EVALUATION OF PROJECT JUSTIFICA-  
24           TION.—In making the determinations under para-

graph (2)(B) for a major capital investment grant,  
the Secretary shall analyze, evaluate, and consider—

“(A) the results of the alternatives analysis  
and preliminary engineering for the proposed  
project;

“(B) the reliability of the forecasts of costs  
and utilization made by the recipient and the  
contractors to the recipient;

“(C) the direct and indirect costs of rel-  
evant alternatives;

“(D) factors such as—

“(i) congestion relief;

“(ii) improved mobility;

“(iii) air pollution;

“(iv) noise pollution;

“(v) energy consumption; and

“(vi) all associated ancillary and miti-  
gation costs necessary to carry out each al-  
ternative analyzed;

“(E) reductions in local infrastructure  
costs achieved through compact land use devel-  
opment and positive impacts on the capacity,  
utilization, or longevity of other surface trans-  
portation assets and facilities;

“(F) the cost of suburban sprawl;

1           “(G) the degree to which the project in-  
 2           creases the mobility of the public transportation  
 3           dependent population or promotes economic de-  
 4           velopment;

5           “(H) population density and current tran-  
 6           sit ridership in the transportation corridor;

7           “(I) the technical capability of the grant  
 8           recipient to construct the project;

9           “(J) any adjustment to the project jus-  
 10          tification necessary to reflect differences in local  
 11          land, construction, and operating costs; and

12          “(K) other factors that the Secretary de-  
 13          termines to be appropriate to carry out this  
 14          chapter.

15          “(4) EVALUATION OF LOCAL FINANCIAL COM-  
 16          MITMENT.—

17                 “(A) IN GENERAL.—In evaluating a  
 18                 project under paragraph (2)(C), the Secretary  
 19                 shall require that—

20                         “(i) the proposed project plan pro-  
 21                         vides for the availability of contingency  
 22                         amounts that the Secretary determines to  
 23                         be reasonable to cover unanticipated cost  
 24                         increases;

1           “(ii) each proposed local source of  
2           capital and operating financing is stable,  
3           reliable, and available within the proposed  
4           project timetable; and

5           “(iii) local resources are available to  
6           recapitalize and operate the overall pro-  
7           posed public transportation system, includ-  
8           ing essential feeder bus and other services  
9           necessary to achieve the projected ridership  
10          levels, while ensuring that the extent and  
11          quality of existing public transportation  
12          services are not degraded.

13          “(B) EVALUATION CRITERIA.—In assess-  
14          ing the stability, reliability, and availability of  
15          proposed sources of local financing under para-  
16          graph (2)(C), the Secretary shall consider—

17               “(i) the reliability of the forecasts of  
18               costs and utilization made by the recipient  
19               and the contractors to the recipient;

20               “(ii) existing grant commitments;

21               “(iii) the degree to which financing  
22               sources are dedicated to the proposed pur-  
23               poses;

24               “(iv) any debt obligation that exists,  
25               or is proposed by the recipient, for the pro-

1           posed project or other public transpor-  
2           tation purpose; and

3           “(v) the extent to which the project  
4           has a local financial commitment that ex-  
5           ceeds the required non-Federal share of  
6           the cost of the project, provided that if the  
7           Secretary gives priority to financing  
8           projects that include more than the non-  
9           Federal share required under subsection  
10          (h), the Secretary shall give equal consider-  
11          ation to differences in the fiscal capacity of  
12          State and local governments.

13          “(5) PROJECT ADVANCEMENT AND RATINGS.—

14                 “(A) PROJECT ADVANCEMENT.—A pro-  
15                 posed project under this subsection shall not  
16                 advance from alternatives analysis to prelimi-  
17                 nary engineering or from preliminary engineer-  
18                 ing to final design and construction unless the  
19                 Secretary determines that the project meets the  
20                 requirements of this section and there is a rea-  
21                 sonable likelihood that the project will continue  
22                 to meet such requirements.

23                 “(B) RATINGS.—In making a determina-  
24                 tion under subparagraph (A), the Secretary  
25                 shall evaluate and rate the project on a 5-point

1 scale (high, medium-high, medium, medium-low,  
2 or low) based on the results of the alternatives  
3 analysis, the project justification criteria, and  
4 the degree of local financial commitment, as re-  
5 quired under this subsection. In rating the  
6 projects, the Secretary shall provide, in addition  
7 to the overall project rating, individual ratings  
8 for each of the criteria established by regula-  
9 tion.

10 “(6) APPLICABILITY.—This subsection shall not  
11 apply to projects for which the Secretary has issued  
12 a letter of intent or entered into a full funding grant  
13 agreement before the date of enactment of the Fed-  
14 eral Public Transportation Act of 2005.

15 “(7) RULEMAKING.—Not later than 240 days  
16 after the date of enactment of the Federal Public  
17 Transportation Act of 2005, the Secretary shall  
18 issue regulations on the manner by which the Sec-  
19 retary shall evaluate and rate projects based on the  
20 results of alternatives analysis, project justification,  
21 and local financial commitment, in accordance with  
22 this subsection.

23 “(8) POLICY GUIDANCE.—

1           “(A) PUBLICATION.—The Secretary shall  
 2           publish policy guidance regarding the new  
 3           starts project review and evaluation process—

4                   “(i) not later than 120 days after the  
 5           date of enactment of the Federal Public  
 6           Transportation Act of 2005; and

7                   “(ii) each time significant changes are  
 8           made by the Secretary to the new starts  
 9           project review and evaluation process and  
 10          criteria, but not less frequently than once  
 11          every 2 years.

12          “(B) PUBLIC COMMENT AND RESPONSE.—  
 13          The Secretary shall—

14                   “(i) invite public comment to the pol-  
 15          icy guidance published under subparagraph  
 16          (A); and

17                   “(ii) publish a response to the com-  
 18          ments received under clause (i).”.

19          (f) MAJOR CAPITAL INVESTMENT PROJECTS OF  
 20          LESS THAN \$75,000,000.— Section 5309(f) is amended  
 21          to read as follows:

22          “(f) MAJOR CAPITAL INVESTMENT PROJECTS OF  
 23          LESS THAN \$75,000,000.—

24                   “(1) PROJECT CONSTRUCTION GRANT AGREE-  
 25          MENT.—

1           “(A) IN GENERAL.—The Secretary shall  
 2           enter into a project construction grant agree-  
 3           ment, based on evaluations and ratings required  
 4           under this subsection, with each grantee receiv-  
 5           ing less than \$75,000,000 under this subsection  
 6           for a new fixed guideway or corridor improve-  
 7           ment capital project that—

8                   “(i) is authorized by law; and

9                   “(ii) has been rated as medium, me-  
 10                  dium-high, or high, in accordance with  
 11                  paragraph (3)(B).

12           “(B) CONTENTS.—

13                   “(i) IN GENERAL.—An agreement  
 14                  under this paragraph shall specify—

15                           “(I) the scope of the project to be  
 16                          constructed;

17                           “(II) the estimated net cost of  
 18                          the project;

19                           “(III) the schedule under which  
 20                          the project shall be constructed;

21                           “(IV) the maximum amount of  
 22                          funding to be obtained under this sub-  
 23                          section;



1 “(V) the proposed schedule for  
 2 obligation of future Federal grants;  
 3 and

4 “(VI) the sources of non-Federal  
 5 funding.

6 “(ii) ADDITIONAL FUNDING.—The  
 7 agreement may include a commitment on  
 8 the part of the Secretary to provide fund-  
 9 ing for the project in future fiscal years.

10 “(C) FULL FUNDING GRANT AGREE-  
 11 MENT.—An agreement under this paragraph  
 12 shall be considered a full funding grant agree-  
 13 ment for the purposes of subsection (g).

14 “(2) SELECTION PROCESS.—

15 “(A) SELECTION CRITERIA.—The Sec-  
 16 retary may not award a grant under this sub-  
 17 section for a proposed project unless the Sec-  
 18 retary determines that the project is—

19 “(i) based on the results of planning  
 20 and alternatives analysis;

21 “(ii) justified based on a review of its  
 22 public transportation supportive land use  
 23 policies, cost effectiveness, and effect on  
 24 local economic development; and

1                   “(iii) supported by an acceptable de-  
2                   gree of local financial commitment.

3                   “(B) PLANNING AND ALTERNATIVES.—In  
4                   evaluating a project under subparagraph (A)(i),  
5                   the Secretary shall analyze and consider the re-  
6                   sults of planning and alternatives analysis for  
7                   the project.

8                   “(C) PROJECT JUSTIFICATION.—In mak-  
9                   ing the determinations under subparagraph  
10                  (A)(ii), the Secretary shall—

11                  “(i) determine the degree to which  
12                  local land use policies are supportive of the  
13                  public transportation project and the de-  
14                  gree to which the project is likely to  
15                  achieve local developmental goals;

16                  “(ii) determine the cost effectiveness  
17                  of the project at the time of the initiation  
18                  of revenue service;

19                  “(iii) determine the degree to which  
20                  the project will have a positive effect on  
21                  local economic development;

22                  “(iv) consider the reliability of the  
23                  forecasts of costs and ridership associated  
24                  with the project; and

1                   “(v) consider other factors that the  
2                   Secretary determines to be appropriate to  
3                   carry out this subsection.

4                   “(D) LOCAL FINANCIAL COMMITMENT.—  
5                   For purposes of subparagraph (A)(iii), the Sec-  
6                   retary shall require that each proposed local  
7                   source of capital and operating financing is sta-  
8                   ble, reliable, and available within the proposed  
9                   project timetable.

10                  “(3) ADVANCEMENT OF PROJECT TO DEVELOP-  
11                  MENT AND CONSTRUCTION.—

12                  “(A) IN GENERAL.—A proposed project  
13                  under this subsection may not advance from the  
14                  planning and alternatives analysis stage to  
15                  project development and construction unless—

16                         “(i) the Secretary finds that the  
17                         project meets the requirements of this sub-  
18                         section and there is a reasonable likelihood  
19                         that the project will continue to meet such  
20                         requirements; and

21                         “(ii) the metropolitan planning orga-  
22                         nization has adopted the locally preferred  
23                         alternative for the project into the long-  
24                         range transportation plan.

“(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

“(4) IMPACT REPORT.—

“(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

“(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

“(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qual-

1            itative and quantitative differences between  
 2            fixed guideway and non-fixed guideway projects  
 3            with respect to land use and economic develop-  
 4            ment impacts.

5            “(5) REGULATIONS.—Not later than 120 days  
 6            after the date of enactment of the Federal Public  
 7            Transportation Act of 2005, the Secretary shall  
 8            issue regulations establishing an evaluation and rat-  
 9            ing process for proposed projects under this sub-  
 10          section that is based on the results of project jus-  
 11          tification and local financial commitment, as re-  
 12          quired under this subsection.”.

13          (g) FULL FUNDING GRANT AGREEMENTS.—Section  
 14 5309(g)(2) is amended by adding at the end the following:

15          “(C) BEFORE AND AFTER STUDY.—

16                “(i) IN GENERAL.—Each full funding grant  
 17          agreement shall require the applicant to conduct a  
 18          study that—

19                        “(I) describes and analyzes the impacts of  
 20          the new start project on transit services and  
 21          transit ridership;

22                        “(II) evaluates the consistency of predicted  
 23          and actual project characteristics and perform-  
 24          ance; and

1           “(III) identifies sources of differences be-  
2           tween predicted and actual outcomes.

3           “(ii) INFORMATION COLLECTION AND ANALYSIS  
4           PLAN.—

5           “(I) SUBMISSION OF PLAN.—Applicants  
6           seeking a full funding grant agreement shall  
7           submit a complete plan for the collection and  
8           analysis of information to identify the impacts  
9           of the new start project and the accuracy of the  
10          forecasts prepared during the development of  
11          the project. Preparation of this plan shall be in-  
12          cluded in the full funding grant agreement as  
13          an eligible activity.

14          “(II) CONTENTS OF PLAN.—The plan sub-  
15          mitted under subclause (I) shall provide for—

16               “(aa) the collection of data on the  
17               current transit system regarding transit  
18               service levels and ridership patterns, in-  
19               cluding origins and destinations, access  
20               modes, trip purposes, and rider character-  
21               istics;

22               “(bb) documentation of the predicted  
23               scope, service levels, capital costs, oper-  
24               ating costs, and ridership of the project;

1                   “(cc) collection of data on the transit  
 2                   system 2 years after the opening of the  
 3                   new start project, including analogous in-  
 4                   formation on transit service levels and rid-  
 5                   ership patterns and information on the as-  
 6                   built scope and capital costs of the new  
 7                   start project; and

8                   “(dd) analysis of the consistency of  
 9                   predicted project characteristics with the  
 10                  after data.

11           “(D) COLLECTION OF DATA ON CURRENT SYSTEM.—  
 12   To be eligible for a full funding grant agreement, recipi-  
 13   ents shall have collected data on the current system, ac-  
 14   cording to the plan required, before the beginning of con-  
 15   struction of the proposed new start project. Collection of  
 16   this data shall be included in the full funding grant agree-  
 17   ment as an eligible activity.

18           “(E) PUBLIC PRIVATE PARTNERSHIP PILOT PRO-  
 19   GRAM.—

20                   “(i) AUTHORIZATION.—The Secretary may es-  
 21           tablish a pilot program to demonstrate the advan-  
 22           tages of public-private partnerships for certain fixed  
 23           guideway systems development projects.

24                   “(ii) IDENTIFICATION OF QUALIFIED  
 25           PROJECTS.—The Secretary shall identify qualified

1 public-private partnership projects as permitted by  
 2 applicable State and local enabling laws and work  
 3 with project sponsors to enhance project delivery and  
 4 reduce overall costs.”.

5 (h) GOVERNMENT SHARE OF NET PROJECT COST.—

6 Section 5309(h) is amended to read as follows:

7 “(h) GOVERNMENT SHARE OF ADJUSTED NET  
 8 PROJECT COST.—

9 “(1) IN GENERAL.—The Secretary shall esti-  
 10 mate the net project cost based on engineering stud-  
 11 ies, studies of economic feasibility, and information  
 12 on the expected use of equipment or facilities.

13 “(2) ADJUSTMENT FOR COMPLETION UNDER  
 14 BUDGET.—The Secretary may adjust the final net  
 15 project cost of a major capital investment project  
 16 evaluated under subsections (e) and (f) to include  
 17 the cost of eligible activities not included in the  
 18 originally defined project if the Secretary determines  
 19 that the originally defined project has been com-  
 20 pleted at a cost that is significantly below the origi-  
 21 nal estimate.

22 “(3) MAXIMUM GOVERNMENT SHARE.—

23 “(A) IN GENERAL.—A grant for the  
 24 project shall be for 80 percent of the net project  
 25 cost, or the net project cost as adjusted under



1 paragraph (2), unless the grant recipient re-  
2 quests a lower grant percentage.

3 “(B) EXCEPTIONS.—The Secretary may  
4 provide a higher grant percentage than re-  
5 quested by the grant recipient if—

6 “(i) the Secretary determines that the  
7 net project cost of the project is not more  
8 than 10 percent higher than the net  
9 project cost estimated at the time the  
10 project was approved for advancement into  
11 preliminary engineering; and

12 “(ii) the ridership estimated for the  
13 project is not less than 90 percent of the  
14 ridership estimated for the project at the  
15 time the project was approved for advance-  
16 ment into preliminary engineering.

17 “(4) OTHER SOURCES.—The costs not funded  
18 by a grant under this section may be funded from—

19 “(A) an undistributed cash surplus;

20 “(B) a replacement or depreciation cash  
21 fund or reserve; or

22 “(C) new capital, including any Federal  
23 funds that are eligible to be expended for trans-  
24 portation.

1           “(5) PLANNED EXTENSION TO FIXED GUIDE-  
 2       WAY SYSTEM.—In addition to amounts allowed  
 3       under paragraph (1), a planned extension to a fixed  
 4       guideway system may include the cost of rolling  
 5       stock previously purchased if the Secretary deter-  
 6       mines that only non-Federal funds were used and  
 7       that the purchase was made for use on the exten-  
 8       sion. A refund or reduction of the costs not funded  
 9       by a grant under this section may be made only if  
 10      a refund of a proportional amount of the grant is  
 11      made at the same time.

12           “(6) EXCEPTION.—The prohibitions on the use  
 13      of funds for matching requirements under section  
 14      403(a)(5)(C)(vii) of the Social Security Act (42  
 15      U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts  
 16      allowed under paragraph (4).”.

17      (i) LOAN PROVISIONS AND FISCAL CAPACITY CON-  
 18      SIDERATIONS.—Section 5309 is amended—

19           (1) by striking subsections (i), (j), (k), and (l);

20           (2) by redesignating subsections (m) and (n) as  
 21      subsections (i) and (j), respectively;

22           (3) by striking subsection (o) (as added by sec-  
 23      tion 3009(i) of the Federal Transit Act of 1998);  
 24      and

1           (4) by redesignating subsections (o) and (p) as  
2           subsections (k) and (l), respectively.

3           (j) ALLOCATING AMOUNTS.—Section 5309(i), as re-  
4           designated, is amended to read as follows:

5           “(i) ALLOCATING AMOUNTS.—

6           “(1) FISCAL YEAR 2005.—Of the amounts made  
7           available or appropriated for fiscal year 2005 under  
8           section 5338(a)(3)—

9           “(A) \$1,437,829,600 shall be allocated for  
10          projects of not less than \$75,000,000 for major  
11          capital projects for new fixed guideway systems  
12          and extensions of such systems under sub-  
13          section (e) and projects for new fixed guideway  
14          or corridor improvement capital projects under  
15          subsection (f);

16          “(B) \$1,204,684,800 shall be allocated for  
17          capital projects for fixed guideway moderniza-  
18          tion; and

19          “(C) \$669,600,000 shall be allocated for  
20          capital projects for buses and bus-related equip-  
21          ment and facilities.

22          “(2) IN GENERAL.—Of the amounts made  
23          available or appropriated for fiscal year 2006 and  
24          each fiscal year thereafter for grants under this sec-

1       tion pursuant to subsections (b)(4) and (c) of sec-  
2       tion 5338—

3               “(A) the amounts appropriated under sec-  
4               tion 5338(c) shall be allocated for major capital  
5               projects for—

6                       “(i) new fixed guideway systems and  
7                       extensions of not less than \$75,000,000, in  
8                       accordance with subsection (e); and

9                       “(ii) projects for new fixed guideway  
10                      or corridor improvement capital projects,  
11                      in accordance with subsection (f); and

12               “(B) the amounts made available under  
13               section 5338(b)(4) shall be allocated for capital  
14               projects for buses and bus-related equipment  
15               and facilities.

16               “(3) FIXED GUIDEWAY MODERNIZATION.—The  
17               amounts made available for fixed guideway mod-  
18               ernization under section 5338(b)(2)(K) for fiscal  
19               year 2006 and each fiscal year thereafter shall be al-  
20               located in accordance with section 5337.

21               “(4) PRELIMINARY ENGINEERING.—Not more  
22               that 8 percent of the allocation described in para-  
23               graphs (1)(A) and (2)(A) may be expended on pre-  
24               liminary engineering.

1           “(5) FUNDING FOR FERRY BOATS.—Of the  
2           amounts described in paragraphs (1)(A) and (2)(A),  
3           \$10,400,000 shall be available in each of the fiscal  
4           years 2005 through 2009 for capital projects in  
5           Alaska and Hawaii for new fixed guideway systems  
6           and extension projects utilizing ferry boats, ferry  
7           boat terminals, or approaches to ferry boat termi-  
8           nals.

9           “(6) BUS AND BUS FACILITY GRANTS.—

10           “(A) CONSIDERATIONS.—In making grants  
11           under paragraphs (1)(C) and (2)(B), the Sec-  
12           retary shall consider the age and condition of  
13           buses, bus fleets, related equipment, and bus-re-  
14           lated facilities.

15           “(B) PROJECTS NOT IN URBANIZED  
16           AREAS.—Of the amounts made available under  
17           paragraphs (1)(C) and (2)(B), not less than 5.5  
18           percent shall be available in each fiscal year for  
19           projects that are not in urbanized areas.

20           “(C) INTERMODAL TERMINALS.—Of the  
21           amounts made available under paragraphs  
22           (1)(C) and (2)(B), not less than \$75,000,000  
23           shall be available in each fiscal year for inter-  
24           modal terminal projects, including the intercity  
25           bus portion of such projects.”.

1 (k) REPORTS.—Section 5309 is amended by inserting  
 2 at the end the following:

3 “(m) REPORTS.—

4 “(1) ANNUAL REPORT ON FUNDING REC-  
 5 OMMENDATIONS.—

6 “(A) IN GENERAL.—Not later than the  
 7 first Monday of February of each year, the Sec-  
 8 retary shall submit a report on funding rec-  
 9 ommendations to—

10 “(i) the Committee on Transportation  
 11 and Infrastructure of the House of Rep-  
 12 resentatives;

13 “(ii) the Committee on Banking,  
 14 Housing, and Urban Affairs of the Senate;

15 “(iii) the Subcommittee on the De-  
 16 partments of Transportation, Treasury,  
 17 Housing and Urban Development, The Ju-  
 18 diciary, District of Columbia, and Inde-  
 19 pendent Agencies of the Committee on Ap-  
 20 propriations of the House of Representa-  
 21 tives; and

22 “(iv) the Subcommittee on Transpor-  
 23 tation, Treasury, and General Government  
 24 of the Committee on Appropriations of the  
 25 Senate.

1           “(B) CONTENTS.—The report submitted  
2           under subparagraph (A) shall contain—

3                   “(i) a proposal on the allocation of  
4                   amounts to finance grants for capital in-  
5                   vestment projects among grant applicants;

6                   “(ii) a recommendation of projects to  
7                   be funded based on—

8                           “(I) the evaluations and ratings  
9                           determined under subsection (e) and  
10                          (f); and

11                          “(II) existing commitments and  
12                          anticipated funding levels for the sub-  
13                          sequent 3 fiscal years; and

14                          “(iii) detailed ratings and evaluations  
15                          on each project recommended for funding.

16           “(2) TRIANNUAL REPORTS ON PROJECT RAT-  
17           INGS.—

18                   “(A) IN GENERAL.—Not later than the  
19                   first Monday of February, the first Monday of  
20                   June, and the first Monday of October of each  
21                   year, the Secretary shall submit a report on  
22                   project ratings to—

23                           “(i) the Committee on Transportation  
24                           and Infrastructure of the House of Rep-  
25                           resentatives;

1 “(ii) the Committee on Banking,  
2 Housing, and Urban Affairs of the Senate;

3 “(iii) the Subcommittee on the De-  
4 partments of Transportation, Treasury,  
5 Housing and Urban Development, The Ju-  
6 diciary, District of Columbia, and Inde-  
7 pendent Agencies of the Committee on Ap-  
8 propriations of the House of Representa-  
9 tives; and

10 “(iv) the Subcommittee on Transpor-  
11 tation, Treasury, and General Government  
12 of the Committee on Appropriations of the  
13 Senate.

14 “(B) CONTENTS.—Each report submitted  
15 under subparagraph (A) shall contain—

16 “(i) a summary of the ratings of all  
17 capital investment projects for which fund-  
18 ing was requested under this section;

19 “(ii) detailed ratings and evaluations  
20 on the project of each applicant that had  
21 significant changes to the finance or  
22 project proposal or has completed alter-  
23 natives analysis or preliminary engineering  
24 since the date of the latest report; and



1                   “(iii) all relevant information sup-  
2                   porting the evaluation and rating of each  
3                   updated project, including a summary of  
4                   the financial plan of each updated project.

5                   “(3) BEFORE AND AFTER STUDY REPORTS.—  
6                   Not later than the first Monday of August of each  
7                   year, the Secretary shall submit a report containing  
8                   a summary of the results of the studies conducted  
9                   under subsection (g)(2) to—

10                   “(A) the Committee on Transportation and  
11                   Infrastructure of the House of Representatives;

12                   “(B) the Committee on Banking, Housing,  
13                   and Urban Affairs of the Senate;

14                   “(C) the Subcommittee on the Depart-  
15                   ments of Transportation, Treasury, Housing  
16                   and Urban Development, The Judiciary, Dis-  
17                   trict of Columbia, and Independent Agencies of  
18                   the Committee on Appropriations of the House  
19                   of Representatives; and

20                   “(D) the Subcommittee on Transportation,  
21                   Treasury, and General Government of the Com-  
22                   mittee on Appropriations of the Senate.

23                   “(4) CONTRACTOR PERFORMANCE ASSESSMENT  
24                   REPORT.—

1           “(A) IN GENERAL.—Not later than 180  
2           days after the enactment of the Federal Public  
3           Transportation Act of 2005, and each year  
4           thereafter, the Secretary shall submit a report  
5           analyzing the consistency and accuracy of cost  
6           and ridership estimates made by each con-  
7           tractor to public transportation agencies devel-  
8           oping major investment projects to the commit-  
9           tees and subcommittees listed under paragraph  
10          (3).

11          “(B) CONTENTS.—The report submitted  
12          under subparagraph (A) shall compare the cost  
13          and ridership estimates made at the time  
14          projects are approved for entrance into prelimi-  
15          nary engineering with—

16               “(i) estimates made at the time  
17               projects are approved for entrance into  
18               final design;

19               “(ii) costs and ridership when the  
20               project commences revenue operation; and

21               “(iii) costs and ridership when the  
22               project has been in operation for 2 years.

23          “(5) ANNUAL GOVERNMENT ACCOUNTABILITY  
24          OFFICE REVIEW.—

1           “(A) REVIEW.—The Comptroller General  
 2           of the United States shall conduct an annual  
 3           review of the processes and procedures for eval-  
 4           uating and rating projects and recommending  
 5           projects and the Secretary’s implementation of  
 6           such processes and procedures.

7           “(B) REPORT.—Not later than 90 days  
 8           after the submission of each report required  
 9           under paragraph (1), the Comptroller General  
 10          shall submit a report to Congress that summa-  
 11          rizes the results of the review conducted under  
 12          subparagraph (A).

13          “(6) CONTRACTOR PERFORMANCE INCENTIVE  
 14          REPORT.—Not later than 180 days after the enact-  
 15          ment of the Federal Public Transportation Act of  
 16          2005, the Secretary shall submit a report to the  
 17          committees and subcommittees listed under para-  
 18          graph (3) on the suitability of allowing contractors  
 19          to public transportation agencies that undertake  
 20          major capital investments under this section to re-  
 21          ceive performance incentive awards if a project is  
 22          completed for less than the original estimated cost.”.

23          (l) RESTRICTIONS ON USE OF BUS CATEGORY  
 24          FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds pro-  
 25          vided to grantees under the bus and bus facility category

1 for fixed guideway ferry and gondola projects in the De-  
 2 partment of Transportation and Related Agencies Appro-  
 3 priations Acts for any of fiscal years 1998 through 2005,  
 4 or accompanying committee reports, that remain available  
 5 and unobligated may be used for fixed guideway projects  
 6 under this section.

7 **SEC. 12. NEW FREEDOM FOR ELDERLY PERSONS AND PER-**  
 8 **SONS WITH DISABILITIES.**

9 (a) IN GENERAL.—Section 5310 is amended to read  
 10 as follows:

11 **“§ 5310. New freedom for elderly persons and persons**  
 12 **with disabilities**

13 “(a) GENERAL AUTHORITY.—

14 “(1) AUTHORIZATION.—The Secretary may  
 15 award grants to a State for capital public transpor-  
 16 tation projects that are planned, designed, and car-  
 17 ried out to meet the needs of elderly individuals and  
 18 individuals with disabilities, with priority given to  
 19 the needs of these individuals to access necessary  
 20 health care.

21 “(2) ACQUISITION OF PUBLIC TRANSPORTATION  
 22 SERVICES.—A capital public transportation project  
 23 under this section may include acquiring public  
 24 transportation services as an eligible capital expense.

1           “(3) ADMINISTRATIVE COSTS.—A State may  
 2           use not more than 15 percent of the amounts re-  
 3           ceived under this section to administer, plan, and  
 4           provide technical assistance for a project funded  
 5           under this section.

6           “(b) ALLOTMENTS AMONG STATES.—

7           “(1) IN GENERAL.—From amounts made avail-  
 8           able or appropriated in each fiscal year under sub-  
 9           sections (a)(1)(C)(iv) and (b)(2)(D) of section 5338  
 10          for grants under this section, the Secretary shall  
 11          allot amounts to each State under a formula based  
 12          on the number of elderly individuals and individuals  
 13          with disabilities in each State.

14          “(2) TRANSFER OF FUNDS.—Any funds allotted  
 15          to a State under paragraph (1) may be transferred  
 16          by the State to the apportionments made under sec-  
 17          tions 5311(c) and 5336 if such funds are only used  
 18          for eligible projects selected under this section.

19          “(3) REALLOCATION OF FUNDS.—A State re-  
 20          ceiving a grant under this section may reallocate  
 21          such grant funds to—

22                  “(A) a private nonprofit organization;

23                  “(B) a public transportation agency or au-  
 24          thority; or

25                  “(C) a governmental authority that—

1 “(i) has been approved by the State to  
 2 coordinate services for elderly individuals  
 3 and individuals with disabilities;

4 “(ii) certifies that nonprofit organiza-  
 5 tions are not readily available in the area  
 6 that can provide the services described  
 7 under this subsection; or

8 “(iii) will provide services to persons  
 9 with disabilities that exceed those services  
 10 required by the Americans with Disabilities  
 11 Act.

12 “(c) GOVERNMENT SHARE.—

13 “(1) MAXIMUM.—

14 “(A) IN GENERAL.—A grant for a capital  
 15 project under this section may not exceed 80  
 16 percent of the net capital costs of the project,  
 17 as determined by the Secretary.

18 “(B) EXCEPTION.—A State described in  
 19 section 120(d) of title 23 shall receive an in-  
 20 creased Government share in accordance with  
 21 the formula under that section.

22 “(2) REMAINING COSTS.—The costs of a capital  
 23 project under this section that are not funded  
 24 through a grant under this section—

1           “(A) may be funded from an undistributed  
2           cash surplus, a replacement or depreciation  
3           cash fund or reserve, a service agreement with  
4           a State or local social service agency or a pri-  
5           vate social service organization, or new capital;  
6           and

7           “(B) may be derived from amounts appro-  
8           priated to or made available to any Federal  
9           agency (other than the Department of Trans-  
10          portation, except for Federal Lands Highway  
11          funds) that are eligible to be expended for  
12          transportation.

13          “(3) EXCEPTION.—For purposes of paragraph  
14          (2), the prohibitions on the use of funds for match-  
15          ing requirements under section 403(a)(5)(C)(vii) of  
16          the Social Security Act (42 U.S.C.  
17          603(a)(5)(C)(vii)) shall not apply to Federal or  
18          State funds to be used for transportation purposes.

19          “(d) GRANT REQUIREMENTS.—

20                 “(1) IN GENERAL.—A grant recipient under  
21                 this section shall be subject to the requirements of  
22                 a grant recipient under section 5307 to the extent  
23                 the Secretary determines to be appropriate.

24                 “(2) CERTIFICATION REQUIREMENTS.—

1           “(A) FUND TRANSFERS.—A grant recipi-  
2           ent under this section that transfers funds to a  
3           project funded under section 5336 in accord-  
4           ance with subsection (b)(2) shall certify that  
5           the project for which the funds are requested  
6           has been coordinated with private nonprofit  
7           providers of services under this section.

8           “(B) PROJECT SELECTION AND PLAN DE-  
9           VELOPMENT.—Each grant recipient under this  
10          section shall certify that—

11               “(i) the projects selected were derived  
12               from a locally developed, coordinated pub-  
13               lic transit-human services transportation  
14               plan; and

15               “(ii) the plan was developed through a  
16               process that included representatives of  
17               public, private, and nonprofit transpor-  
18               tation and human services providers and  
19               participation by the public.

20          “(C) ALLOCATIONS TO SUBRECIPIENTS.—  
21          Each grant recipient under this section shall  
22          certify that allocations of the grant to subrecipi-  
23          ents, if any, are distributed on a fair and equi-  
24          table basis.

25          “(e) STATE PROGRAM OF PROJECTS.—



1           “(1) SUBMISSION TO SECRETARY.—Each State  
2       shall annually submit a program of transportation  
3       projects to the Secretary for approval with an assur-  
4       ance that the program provides for maximum fea-  
5       sible coordination between transportation services  
6       funded under this section and transportation serv-  
7       ices assisted by other Federal sources.

8           “(2) USE OF FUNDS.—Each State may use  
9       amounts made available to carry out this section to  
10      provide transportation services for elderly individuals  
11      and individuals with disabilities if such services are  
12      included in an approved State program of projects.

13      “(f) LEASING VEHICLES.—Vehicles acquired under  
14      this section may be leased to local governmental authori-  
15      ties to improve transportation services designed to meet  
16      the needs of elderly individuals and individuals with dis-  
17      abilities.

18      “(g) MEAL DELIVERY FOR HOMEBOUND INDIVID-  
19      UALS.—Public transportation service providers receiving  
20      assistance under this section or section 5311(c) may co-  
21      ordinate and assist in regularly providing meal delivery  
22      service for homebound individuals if the delivery service  
23      does not conflict with providing public transportation serv-  
24      ice or reduce service to public transportation passengers.

1       “(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—  
 2 With the consent of the recipient in possession of a facility  
 3 or equipment acquired with a grant under this section, a  
 4 State may transfer the facility or equipment to any recipi-  
 5 ent eligible to receive assistance under this chapter if the  
 6 facility or equipment will continue to be used as required  
 7 under this section.

8       “(i) FARES NOT REQUIRED.—This section does not  
 9 require that elderly individuals and individuals with dis-  
 10 abilities be charged a fare.”.

11       (b) CONFORMING AMENDMENT.—The item relating  
 12 to section 5310 in the table of sections for chapter 53 is  
 13 amended to read as follows:

“5310. New freedom for elderly persons and persons with disabilities.”.

14       **SEC. 13. FORMULA GRANTS FOR OTHER THAN URBANIZED**  
 15                               **AREAS.**

16       (a) DEFINITIONS.—Section 5311(a) is amended to  
 17 read as follows:

18       “(a) DEFINITIONS.—As used in this section, the fol-  
 19 lowing definitions shall apply:

20               “(1) RECIPIENT.—The term ‘recipient’ means a  
 21 State or Indian tribe that receives a Federal transit  
 22 program grant directly from the Federal Govern-  
 23 ment.

24               “(2) SUBRECIPIENT.—The term ‘subrecipient’  
 25 means a State or local governmental authority, a

1 nonprofit organization, or a private operator of pub-  
 2 lic transportation or intercity bus service that re-  
 3 ceives Federal transit program grant funds indi-  
 4 rectly through a recipient.”.

5 (b) GENERAL AUTHORITY.—Section 5311(b) is  
 6 amended—

7 (1) by amending paragraph (1) to read as fol-  
 8 lows:

9 “(1) GRANTS AUTHORIZED.—Except as pro-  
 10 vided under paragraph (2), the Secretary may award  
 11 grants under this section to recipients located in  
 12 areas other than urbanized areas for—

13 “(A) public transportation capital projects;

14 “(B) operating costs of equipment and fa-  
 15 cilities for use in public transportation; and

16 “(C) the acquisition of public transpor-  
 17 tation services.”;

18 (2) by redesignating paragraph (2) as para-  
 19 graph (3);

20 (3) by inserting after paragraph (1) the fol-  
 21 lowing:

22 “(2) STATE PROGRAM.—

23 “(A) IN GENERAL.—A project eligible for a  
 24 grant under this section shall be included in a  
 25 State program for public transportation service

1 projects, including agreements with private pro-  
 2 viders of public transportation service.

3 “(B) SUBMISSION TO SECRETARY.—Each  
 4 State shall annually submit the program de-  
 5 scribed in subparagraph (A) to the Secretary.

6 “(C) APPROVAL.—The Secretary may not  
 7 approve the program unless the Secretary de-  
 8 termines that—

9 “(i) the program provides a fair dis-  
 10 tribution of amounts in the State; and

11 “(ii) the program provides the max-  
 12 imum feasible coordination of public trans-  
 13 portation service assisted under this sec-  
 14 tion with transportation service assisted by  
 15 other Federal sources.”;

16 (4) in paragraph (3), as redesignated—

17 (A) by striking “(3) The Secretary of  
 18 Transportation” and inserting the following:

19 “(3) RURAL TRANSPORTATION ASSISTANCE  
 20 PROGRAM.—

21 “(A) ESTABLISHMENT.—The Secretary”;

22 (B) by striking “make” and inserting “use  
 23 not more than 2 percent of the amount made  
 24 available to carry out this section to award”;  
 25 and

1 (C) by adding at the end the following:

2 “(B) DATA COLLECTION.—

3 “(i) REPORT.—Each grantee under  
4 this section shall submit an annual report  
5 to the Secretary containing information on  
6 capital investment, operations, and service  
7 provided with funds received under this  
8 section, including—

9 “(I) total annual revenue;

10 “(II) sources of revenue;

11 “(III) total annual operating  
12 costs;

13 “(IV) total annual capital costs;

14 “(V) fleet size and type, and re-  
15 lated facilities;

16 “(VI) revenue vehicle miles; and

17 “(VII) ridership.”; and

18 (5) by adding after paragraph (3) the following:

19 “(4) Of the amount made available to carry out  
20 paragraph (3)—

21 “(A) not more than 15 percent may be  
22 used to carry out projects of a national scope;  
23 and

1           “(B) any amounts not used under sub-  
 2           paragraph (A) shall be allocated to the  
 3           States.”.

4           (c) APPORTIONMENTS.—Section 5311(c) is amended  
 5 to read as follows:

6           “(c) APPORTIONMENTS.—

7           “(1) PUBLIC TRANSPORTATION ON INDIAN RES-  
 8           ERVATIONS.—Of the amounts made available or ap-  
 9           propriated for each fiscal year pursuant to sub-  
 10          sections (a)(1)(C)(v) and (b)(2)(F) of section 5338,  
 11          the following amounts shall be apportioned for  
 12          grants to Indian tribes for any purpose eligible  
 13          under this section, under such terms and conditions  
 14          as may be established by the Secretary:

15                  “(A) \$8,000,000 for fiscal year 2006.

16                  “(B) \$10,000,000 for fiscal year 2007.

17                  “(C) \$12,000,000 for fiscal year 2008.

18                  “(D) \$15,000,000 for fiscal year 2009.

19           “(2) REMAINING AMOUNTS.—Of the amounts  
 20          made available or appropriated for each fiscal year  
 21          pursuant to subsections (a)(1)(C)(v) and (b)(2)(F)  
 22          of section 5338 that are not apportioned under para-  
 23          graph (1)—

24                  “(A) 20 percent shall be apportioned to the  
 25          States in accordance with paragraph (3); and

1           “(B) 80 percent shall be apportioned to  
2           the States in accordance with paragraph (4).

3           “(3) APPORTIONMENTS BASED ON LAND AREA  
4           IN NONURBANIZED AREAS.—

5           “(A) IN GENERAL.—Subject to subpara-  
6           graph (B), each State shall receive an amount  
7           that is equal to the amount apportioned under  
8           paragraph (2)(A) multiplied by the ratio of the  
9           land area in areas other than urbanized areas  
10          in that State and divided by the land area in  
11          all areas other than urbanized areas in the  
12          United States, as shown by the most recent de-  
13          cennial census of population.

14          “(B) MAXIMUM APPORTIONMENT.—No  
15          State shall receive more than 5 percent of the  
16          amount apportioned under this paragraph.

17          “(4) APPORTIONMENTS BASED ON POPULATION  
18          IN NONURBANIZED AREAS.—Each State shall receive  
19          an amount equal to the amount apportioned under  
20          paragraph (2)(B) multiplied by the ratio of the pop-  
21          ulation of areas other than urbanized areas in that  
22          State divided by the population of all areas other  
23          than urbanized areas in the United States, as shown  
24          by the most recent decennial census of population.”.

1 (d) USE FOR ADMINISTRATIVE, PLANNING, AND  
 2 TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

3 (1) by striking “AND TECHNICAL ASSIST-  
 4 ANCE.—(1) The Secretary of Transportation” and  
 5 inserting “, PLANNING, AND TECHNICAL ASSIST-  
 6 ANCE.—The Secretary”;

7 (2) by striking “to a recipient”; and

8 (3) by striking paragraph (2).

9 (e) INTERCITY BUS TRANSPORTATION.—Section  
 10 5311(f) is amended—

11 (1) in paragraph (1)—

12 (A) by striking “(1)” and inserting the fol-  
 13 lowing:

14 “(1) IN GENERAL.—”; and

15 (B) by striking “after September 30,  
 16 1993,”; and

17 (2) in paragraph (2)—

18 (A) by striking “A State” and inserting  
 19 “After consultation with affected intercity bus  
 20 service providers, a State”; and

21 (B) by striking “of Transportation”.

22 (f) GOVERNMENT SHARE OF COSTS.—Section  
 23 5311(g) is amended to read as follows:

24 “(g) GOVERNMENT SHARE OF COSTS.—

25 “(1) MAXIMUM GOVERNMENT SHARE.—



1 “(A) CAPITAL PROJECTS.—

2 “(i) IN GENERAL.—Except as pro-  
3 vided under clause (ii), a grant awarded  
4 under this section for any purpose other  
5 than operating assistance may not exceed  
6 80 percent of the net capital costs of the  
7 project, as determined by the Secretary.

8 “(ii) EXCEPTION.—A State described  
9 in section 120(d) of title 23 shall receive a  
10 Government share of the net capital costs  
11 in accordance with the formula under that  
12 section.

13 “(B) OPERATING ASSISTANCE.—

14 “(i) IN GENERAL.—Except as pro-  
15 vided under clause (ii), a grant made  
16 under this section for operating assistance  
17 may not exceed 50 percent of the net oper-  
18 ating costs of the project, as determined by  
19 the Secretary.

20 “(ii) EXCEPTION.—A State described  
21 in section 120(d) of title 23 shall receive a  
22 Government share of the net operating  
23 costs equal to 62.5 percent of the Govern-  
24 ment share provided for under subpara-  
25 graph (A)(ii).

1           “(2) OTHER FUNDING SOURCES.—Funds for a  
2           project under this section that are not provided for  
3           by a grant under this section—

4                   “(A) may be provided from—

5                           “(i) an undistributed cash surplus;

6                           “(ii) a replacement or depreciation  
7                           cash fund or reserve;

8                           “(iii) a service agreement with a State  
9                           or local social service agency or a private  
10                          social service organization; or

11                          “(iv) new capital; and

12                          “(B) may be derived from amounts appro-  
13                          priated to or made available to a Government  
14                          agency (other than the Department of Trans-  
15                          portation, except for Federal Land Highway  
16                          funds) that are eligible to be expended for  
17                          transportation.

18           “(3) USE OF GOVERNMENT GRANT.—A State  
19           carrying out a program of operating assistance  
20           under this section may not limit the level or extent  
21           of use of the Government grant for the payment of  
22           operating expenses.

23           “(4) EXCEPTION.—For purposes of paragraph  
24           (2)(B), the prohibitions on the use of funds for  
25           matching requirements under section

1       403(a)(5)(c)(vii) of the Social Security Act (42  
 2       U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal  
 3       or State funds to be used for transportation pur-  
 4       poses.”.

5       (g) WAIVER CONDITION.—Section 5311(j)(1) is  
 6       amended by striking “but the Secretary of Labor may  
 7       waive the application of section 5333(b)” and inserting “if  
 8       the Secretary of Labor utilizes a Special Warranty that  
 9       provides a fair and equitable arrangement to protect the  
 10      interests of employees”.

11   **SEC. 14. RESEARCH, DEVELOPMENT, DEMONSTRATION,**  
 12                   **AND DEPLOYMENT PROJECTS.**

13       (a) IN GENERAL.—Section 5312 is amended—

14               (1) by amending subsection (a) to read as fol-  
 15      lows:

16       “(a) RESEARCH, DEVELOPMENT, AND DEMONSTRA-  
 17      TION PROJECTS.—

18               “(1) IN GENERAL.—The Secretary may make  
 19      grants, contracts, cooperative agreements, or other  
 20      transactions (including agreements with depart-  
 21      ments, agencies, and instrumentalities of the United  
 22      States Government) for research, development, dem-  
 23      onstration or deployment projects, or evaluation of  
 24      technology of national significance to public trans-  
 25      portation that the Secretary determines will improve

1 public transportation service or help public transpor-  
 2 tation service meet the total transportation needs at  
 3 a minimum cost.

4 “(2) INFORMATION.—The Secretary may re-  
 5 quest and receive appropriate information from any  
 6 source.

7 “(3) SAVINGS PROVISION.—This subsection  
 8 does not limit the authority of the Secretary under  
 9 any other law.”;

10 (2) by striking subsections (b) and (c);

11 (3) by redesignating subsections (d) and (e) as  
 12 (b) and (c), respectively.

13 (4) in subsection (b)(2), as redesignated, by  
 14 striking “other agreements” and inserting “other  
 15 transactions”; and

16 (5) in subsection (c)(2), as redesignated, by  
 17 striking “public and private” and inserting “public  
 18 or private”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) SECTION HEADING.—The heading of section  
 21 5312 is amended to read as follows:

1 **“§ 5312. Research, development, demonstration, and**  
 2 **deployment projects”.**

3 (2) TABLE OF SECTIONS.—The item relating to  
 4 section 5312 in the table of sections for chapter 53  
 5 is amended to read as follows:

“5312. Research, development, demonstration, and deployment projects.”.

6 **SEC. 15. TRANSIT COOPERATIVE RESEARCH PROGRAM.**

7 (a) IN GENERAL.—Section 5313 is amended—

8 (1) by striking subsection (b);

9 (2) in subsection (a)—

10 (A) in paragraph (1), by striking “(1) The  
 11 amounts made available under paragraphs (1)  
 12 and (2)C)(ii) of section 5338(c) of this title”  
 13 and inserting “The amounts made available  
 14 under subsections (a)(5)(C)(iii) and (b)(2)(G)(i)  
 15 of section 5338”; and

16 (B) in paragraph (2), by striking “(2)”  
 17 and inserting the following:

18 “(b) GOVERNMENT ASSISTANCE.—”; and

19 (3) by amending subsection (c) to read as fol-  
 20 lows:

21 “(c) GOVERNMENT SHARE.—If there would be a  
 22 clear and direct financial benefit to an entity under a  
 23 grant or contract financed under this section, the Sec-  
 24 retary shall establish a Government share consistent with  
 25 such benefit.”.

1 (b) CONFORMING AMENDMENTS.—

2 (1) SECTION HEADING.—The heading of section  
3 5313 is amended to read as follows:

4 **“§ 5313. Transit cooperative research program”.**

5 (2) TABLE OF SECTIONS.—The item relating to  
6 section 5313 in the table of sections for chapter 53  
7 is amended to read as follows:

“5313. Transit cooperative research program.”.

8 **SEC. 16. NATIONAL RESEARCH PROGRAMS.**

9 (a) IN GENERAL.—Section 5314 is amended—

10 (1) in subsection (a)—

11 (A) by amending paragraph (1) to read as  
12 follows:

13 “(1) AVAILABILITY OF FUNDS.—The Secretary  
14 may use amounts made available under subsections  
15 (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for  
16 grants, contracts, cooperative agreements, or other  
17 transactions for the purposes described in sections  
18 5312, 5315, and 5322.”;

19 (B) in paragraph (2), by striking “(2) Of”  
20 and inserting the following:

21 “(2) ADA COMPLIANCE.—From”;

22 (C) by amending paragraph (3) to read as  
23 follows:

24 “(3) SPECIAL DEMONSTRATION INITIATIVES.—  
25 The Secretary may use not more than 25 percent of

1 the amounts made available under paragraph (1) for  
 2 special demonstration initiatives, subject to terms  
 3 that the Secretary determines to be consistent with  
 4 this chapter. For a nonrenewable grant of not more  
 5 than \$100,000, the Secretary shall provide expedited  
 6 procedures for complying with the requirements of  
 7 this chapter.”;

8 (D) in paragraph (4)—

9 (i) by striking subparagraph (B); and

10 (ii) by redesignating subparagraph

11 (C) as subparagraph (B); and

12 (E) by adding at the end the following:

13 “(6) MEDICAL TRANSPORTATION DEMONSTRA-  
 14 TION GRANTS.—

15 “(A) GRANTS AUTHORIZED.—The Sec-  
 16 retary may award demonstration grants, from  
 17 funds made available under paragraph (1), to  
 18 eligible entities to provide transportation serv-  
 19 ices to individuals to access dialysis treatments  
 20 and other medical treatments for renal disease.

21 “(B) ELIGIBLE ENTITIES.—An entity shall  
 22 be eligible to receive a grant under this para-  
 23 graph if the entity—

1 “(i) meets the conditions described in  
2 section 501(c)(3) of the Internal Revenue  
3 Code of 1986; or

4 “(ii) is an agency of a State or unit  
5 of local government.

6 “(C) USE OF FUNDS.—Grant funds re-  
7 ceived under this paragraph may be used to  
8 provide transportation services to individuals to  
9 access dialysis treatments and other medical  
10 treatments for renal disease.

11 “(D) APPLICATION.—

12 “(i) IN GENERAL.—Each eligible enti-  
13 ty desiring a grant under this paragraph  
14 shall submit an application to the Sec-  
15 retary at such time, at such place, and  
16 containing such information as the Sec-  
17 retary may reasonably require.

18 “(ii) SELECTION OF GRANTEES.—In  
19 awarding grants under this paragraph, the  
20 Secretary shall give preference to eligible  
21 entities from communities with—

22 “(I) high incidence of renal dis-  
23 ease; and

24 “(II) limited access to dialysis fa-  
25 cilities.



1           “(E) RULEMAKING.—The Secretary shall  
 2           issue regulations to implement and administer  
 3           the grant program established under this para-  
 4           graph.

5           “(F) REPORT.—The Secretary shall sub-  
 6           mit a report on the results of the demonstration  
 7           projects funded under this paragraph to the  
 8           Committee on Banking, Housing, and Urban  
 9           Affairs of the Senate and the Committee on  
 10          Transportation and Infrastructure of the House  
 11          of Representatives.”; and

12          (2) by amending subsection (b) to read as fol-  
 13          lows:

14          “(b) GOVERNMENT SHARE.—If there would be a  
 15          clear and direct financial benefit to an entity under a  
 16          grant, contract, cooperative agreement, or other trans-  
 17          action financed under subsection (a) or section 5312,  
 18          5313, 5315, or 5322, the Secretary shall establish a Gov-  
 19          ernment share consistent with such benefit.”.

20          (c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR  
 21          SENIOR TRANSPORTATION; ALTERNATIVE FUELS  
 22          STUDY.—Section 5314 is amended by adding at the end  
 23          the following:

24          “(c) NATIONAL TECHNICAL ASSISTANCE CENTER  
 25          FOR SENIOR TRANSPORTATION.—

1           “(1) ESTABLISHMENT.—The Secretary shall  
2           award grants to a national not-for-profit organiza-  
3           tion for the establishment and maintenance of a na-  
4           tional technical assistance center.

5           “(2) ELIGIBILITY.—An organization shall be el-  
6           igible to receive the grant under paragraph (1) if the  
7           organization—

8                   “(A) focuses significantly on serving the  
9                   needs of the elderly;

10                   “(B) has demonstrated knowledge and ex-  
11                   pertise in senior transportation policy and plan-  
12                   ning issues;

13                   “(C) has affiliates in a majority of the  
14                   States;

15                   “(D) has the capacity to convene local  
16                   groups to consult on operation and development  
17                   of senior transportation programs; and

18                   “(E) has established close working rela-  
19                   tionships with the Federal Transit Administra-  
20                   tion and the Administration on Aging.

21           “(3) USE OF FUNDS.—The national technical  
22           assistance center established under this section  
23           shall—

24                   “(A) gather best practices from throughout  
25                   the country and provide such practices to local

1 communities that are implementing senior  
2 transportation programs;

3 “(B) work with teams from local commu-  
4 nities to identify how they are successfully  
5 meeting the transportation needs of senior and  
6 any gaps in services in order to create a plan  
7 for an integrated senior transportation pro-  
8 gram;

9 “(C) provide resources on ways to pay for  
10 senior transportation services;

11 “(D) create a web site to publicize and cir-  
12 culate information on senior transportation pro-  
13 grams;

14 “(E) establish a clearinghouse for print,  
15 video, and audio resources on senior mobility;  
16 and

17 “(F) administer the demonstration grant  
18 program established under paragraph (4).

19 “(4) GRANTS AUTHORIZED.—

20 “(A) IN GENERAL.—The national technical  
21 assistance center established under this section,  
22 in consultation with the Federal Transit Ad-  
23 ministration, shall award senior transportation  
24 demonstration grants to—

25 “(i) local transportation organizations;

1 “(ii) State agencies;

2 “(iii) units of local government; and

3 “(iv) nonprofit organizations.

4 “(B) USE OF FUNDS.—Grant funds re-  
5 ceived under this paragraph may be used to—

6 “(i) evaluate the state of transpor-  
7 tation services for senior citizens;

8 “(ii) recognize barriers to mobility  
9 that senior citizens encounter in their com-  
10 munities;

11 “(iii) establish partnerships and pro-  
12 mote coordination among community  
13 stakeholders, including public, not-for-prof-  
14 it, and for-profit providers of transpor-  
15 tation services for senior citizens;

16 “(iv) identify future transportation  
17 needs of senior citizens within local com-  
18 munities; and

19 “(v) establish strategies to meet the  
20 unique needs of healthy and frail senior  
21 citizens.

22 “(C) SELECTION OF GRANTEES.—The Sec-  
23 retary shall select grantees under this sub-  
24 section based on a fair representation of various

1           geographical locations throughout the United  
2           States.

3           “(5) ALLOCATIONS.—From the funds made  
4           available for each fiscal year under subsections  
5           (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338,  
6           \$3,000,000 shall be allocated to carry out this sub-  
7           section.

8           “(d) ALTERNATIVE FUELS STUDY.—

9           “(1) STUDY.—The Secretary shall conduct a  
10          study of the actions necessary to facilitate the pur-  
11          chase of increased volumes of alternative fuels (as  
12          defined in section 301 of the Energy Policy Act of  
13          1992 (42 U.S.C. 13211)) for use in public transit  
14          vehicles

15          “(2) SCOPE OF STUDY.—The study conducted  
16          under this subsection shall focus on the incentives  
17          necessary to increase the use of alternative fuels in  
18          public transit vehicles, including buses, fixed guide-  
19          way vehicles, and ferries.

20          “(3) CONTENTS.—The study shall consider—

21                  “(A) the environmental benefits of in-  
22                  creased use of alternative fuels in transit vehi-  
23                  cles;

24                  “(B) existing opportunities available to  
25                  transit system operators that encourage the

1 purchase of alternative fuels for transit vehicle  
2 operation;

3 “(C) existing barriers to transit system op-  
4 erators that discourage the purchase of alter-  
5 native fuels for transit vehicle operation, includ-  
6 ing situations where alternative fuels that do  
7 not require capital improvements to transit ve-  
8 hicles are disadvantaged over fuels that do re-  
9 quire such improvements; and

10 “(D) the necessary levels and type of sup-  
11 port necessary to encourage additional use of  
12 alternative fuels for transit vehicle operation.

13 “(4) RECOMMENDATIONS.—The study shall rec-  
14 ommend regulatory and legislative alternatives that  
15 will result in the increased use of alternative fuels in  
16 transit vehicles.

17 “(5) REPORT.—Not later than 1 year after the  
18 date of enactment of the Federal Public Transpor-  
19 tation Act of 2005, the Secretary shall submit the  
20 study completed under this subsection to the Com-  
21 mittee on Banking, Housing, and Urban Affairs of  
22 the Senate and the Committee on Transportation  
23 and Infrastructure of the House of Representa-  
24 tives”.

25 (d) CONFORMING AMENDMENTS.—

1           (1) SECTION HEADING.—The heading for sec-  
2           tion 5314 is amended to read as follows:

3   **“§ 5314. National research programs”.**

4           (2) TABLE OF SECTIONS.—The item relating to  
5           section 5314 in the table of sections for chapter 53  
6           is amended to read as follows:

“5314. National research programs.”.

7   **SEC. 17. NATIONAL TRANSIT INSTITUTE.**

8           (a) Section 5315 is amended—

9           (1) by striking subsections (a) and (b) and in-  
10          serting the following:

11          “(a) ESTABLISHMENT.—The Secretary shall award  
12          grants to Rutgers University to conduct a national transit  
13          institute.

14          “(b) DUTIES.—

15               “(1) IN GENERAL.—In cooperation with the  
16          Federal Transit Administration, State transpor-  
17          tation departments, public transportation authori-  
18          ties, and national and international entities, the in-  
19          stitute established pursuant to subsection (a) shall  
20          develop and conduct training programs for Federal,  
21          State, and local transportation employees, United  
22          States citizens, and foreign nationals engaged or to  
23          be engaged in Government-aid public transportation  
24          work.

1           “(2) TRAINING PROGRAMS.—The training pro-  
2           grams developed under paragraph (1) may include  
3           courses in recent developments, techniques, and pro-  
4           cedures related to—

5                   “(A) intermodal and public transportation  
6           planning;

7                   “(B) management;

8                   “(C) environmental factors;

9                   “(D) acquisition and joint use rights of  
10          way;

11                  “(E) engineering and architectural design;

12                  “(F) procurement strategies for public  
13          transportation systems;

14                  “(G) turnkey approaches to delivering pub-  
15          lic transportation systems;

16                  “(H) new technologies;

17                  “(I) emission reduction technologies;

18                  “(J) ways to make public transportation  
19          accessible to individuals with disabilities;

20                  “(K) construction, construction manage-  
21          ment, insurance, and risk management;

22                  “(L) maintenance;

23                  “(M) contract administration;

24                  “(N) inspection;

25                  “(O) innovative finance;



1 “(P) workplace safety; and

2 “(Q) public transportation security.”; and

3 (2) in subsection (d), by striking “mass” each  
4 place it appears.

5 **SEC. 18. BUS TESTING FACILITY.**

6 Section 5318 is amended—

7 (1) in subsection (a)—

8 (A) by striking “ESTABLISHMENT.—The  
9 Secretary of Transportation shall establish one  
10 facility” and inserting “IN GENERAL.—The  
11 Secretary shall maintain 1 facility”; and

12 (B) by striking “established by renovating”  
13 and inserting “maintained at”; and

14 (2) in subsection (d), by striking “section  
15 5309(m)(1)(C) of this title” and inserting “para-  
16 graphs (1)(C) and (2)(B) of section 5309(i)”.

17 **SEC. 19. BICYCLE FACILITIES.**

18 Section 5319 is amended by striking “5307(k)” and  
19 inserting “5307(d)(1)(K)”.

20 **SEC. 20. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT**  
21 **PROJECT.**

22 Section 5320 is repealed.

23 **SEC. 21. CRIME PREVENTION AND SECURITY.**

24 Section 5321 is repealed.

1 **SEC. 22. GENERAL PROVISIONS ON ASSISTANCE.**

2 Section 5323 is amended—

3 (1) in subsection (a)—

4 (A) by amending paragraph (1) to read as  
5 follows:

6 “(1) IN GENERAL.—Financial assistance pro-  
7 vided under this chapter to a State or a local gov-  
8 ernmental authority may be used to acquire an in-  
9 terest in, or to buy property of, a private company  
10 engaged in public transportation, for a capital  
11 project for property acquired from a private com-  
12 pany engaged in public transportation after July 9,  
13 1964, or to operate a public transportation facility  
14 or equipment in competition with, or in addition to,  
15 transportation service provided by an existing public  
16 transportation company, only if—

17 “(A) the Secretary determines that such fi-  
18 nancial assistance is essential to a program of  
19 projects required under sections 5303, 5304,  
20 and 5306;

21 “(B) the Secretary determines that the  
22 program provides for the participation of pri-  
23 vate companies engaged in public transpor-  
24 tation to the maximum extent feasible; and

1           “(C) just compensation under State or  
2           local law will be paid to the company for its  
3           franchise or property.”; and

4           (B) in paragraph (2), by striking “(2)”  
5           and inserting the following:

6           “(2) LIMITATION.—”;

7           (2) by amending subsection (b) to read as fol-  
8           lows:

9           “(b) NOTICE AND PUBLIC HEARING.—

10           “(1) IN GENERAL.—An application for a grant  
11           under this chapter for a capital project that will sub-  
12           stantially affect a community, or the public trans-  
13           portation service of a community, shall include, in  
14           the environmental record for the project, evidence  
15           that the applicant has—

16           “(A) provided an adequate opportunity for  
17           public review and comment on the project;

18           “(B) held a public hearing on the project  
19           if the project affects significant economic, so-  
20           cial, or environmental interests;

21           “(C) considered the economic, social, and  
22           environmental effects of the project; and

23           “(D) found that the project is consistent  
24           with official plans for developing the urban  
25           area.

1           “(2) CONTENTS OF NOTICE.—Notice of a hear-  
2           ing under this subsection—

3                   “(A) shall include a concise description of  
4           the proposed project; and

5                   “(B) shall be published in a newspaper of  
6           general circulation in the geographic area the  
7           project will serve.”;

8           (3) by amending subsection (e) to read as fol-  
9           lows:

10           “(e) NEW TECHNOLOGY.—A grant for financial as-  
11           sistance under this chapter for new technology, including  
12           innovative or improved products, techniques, or methods,  
13           shall be subject to the requirements of section 5309 to  
14           the extent the Secretary determines to be appropriate.”;

15           (4) in subsection (f)—

16                   (A) by striking “(1)” and inserting the fol-  
17           lowing:

18                   “(1) IN GENERAL.—”;

19                   (B) by striking paragraph (2);

20                   (C) by striking “This subsection” and in-  
21           serting the following:

22                   “(2) EXCEPTIONS.—This subsection; and

23                   (D) by adding at the end the following:

24                   “(3) PENALTY.—If the Secretary determines  
25           that an applicant, governmental authority, or pub-

1       licly owned operator has violated the agreement re-  
 2       quired under paragraph (1), the Secretary shall bar  
 3       the applicant, authority, or operator from receiving  
 4       Federal transit assistance in an amount the Sec-  
 5       retary determines to be appropriate.”;

6               (5) in subsection (g), by striking “103(e)(4)  
 7       and 142 (a) or (c)” each place it appears and insert-  
 8       ing “133 and 142”;

9               (6) by amending subsection (h) to read as fol-  
 10      lows:

11      “(h) TRANSFER OF LANDS OR INTERESTS IN LANDS  
 12      OWNED BY THE UNITED STATES.—

13              “(1) REQUEST BY SECRETARY.—If the Sec-  
 14      retary determines that any part of the lands or in-  
 15      terests in lands owned by the United States and  
 16      made available as a result of a military base closure  
 17      is necessary for transit purposes eligible under this  
 18      chapter, including corridor preservation, the Sec-  
 19      retary shall submit a request to the head of the Fed-  
 20      eral agency supervising the administration of such  
 21      lands or interests in lands. Such request shall in-  
 22      clude a map showing the portion of such lands or in-  
 23      terests in lands, which is desired to be transferred  
 24      for public transportation purposes.

1           “(2) TRANSFER OF LAND.—If 4 months after  
2       submitting a request under paragraph (1), the Sec-  
3       retary does not receive a response from the Federal  
4       agency described in paragraph (1) that certifies that  
5       the proposed appropriation of land is contrary to the  
6       public interest or inconsistent with the purposes for  
7       which such land has been reserved, or if the head of  
8       such agency agrees to the utilization or transfer  
9       under conditions necessary for the adequate protec-  
10      tion and utilization of the reserve, such land or in-  
11      terests in land may be utilized or transferred to a  
12      State, local governmental authority, or public trans-  
13      portation operator for such purposes and subject to  
14      the conditions specified by such agency.

15           “(3) REVERSION.—If at any time the lands or  
16      interests in land utilized or transferred under para-  
17      graph (2) are no longer needed for public transpor-  
18      tation purposes, the State, local governmental au-  
19      thority, or public transportation operator that re-  
20      ceived the land shall notify to the Secretary, and  
21      such lands shall immediately revert to the control of  
22      the head of the Federal agency from which the land  
23      was originally transferred.”;

24           (7) in subsection (j)(5), by striking “Intermodal  
25      Surface Transportation Efficiency Act of 1991

1 (Public Law 102–240, 105 Stat. 1914)” and insert-  
 2 ing “Federal Public Transportation Act of 2005”;

3 (8) by amending subsection (*l*) to read as fol-  
 4 lows:

5 “(*l*) RELATIONSHIP TO OTHER LAWS.—Section 1001  
 6 of title 18 applies to a certificate, submission, or statement  
 7 provided under this chapter. The Secretary may terminate  
 8 financial assistance under this chapter and seek reim-  
 9 bursement directly, or by offsetting amounts, available  
 10 under this chapter, if the Secretary determines that a re-  
 11 cipient of such financial assistance has made a false or  
 12 fraudulent statement or related act in connection with a  
 13 Federal transit program.”;

14 (9) in subsection (*m*), by adding at the end the  
 15 following: “Requirements to perform preaward and  
 16 postdelivery reviews of rolling stock purchases to en-  
 17 sure compliance with subsection (*j*) shall not apply  
 18 to private nonprofit organizations or to grantees  
 19 serving urbanized areas with a population of fewer  
 20 than 1,000,000.”;

21 (10) in subsection (*o*), by striking “the Trans-  
 22 portation Infrastructure Finance and Innovation Act  
 23 of 1998” and inserting “subchapter II of chapter 1  
 24 of title 23”; and

25 (11) by adding at the end the following:

1       “(p) BOND PROCEEDS ELIGIBLE FOR LOCAL  
2 SHARE.—

3               “(1) IN GENERAL.—Notwithstanding any other  
4 provision of law, a recipient of assistance under sec-  
5 tion 5307 or 5309, may use the proceeds from the  
6 issuance of revenue bonds as part of the local  
7 matching funds for a capital project.

8               “(2) REIMBURSEMENT BY SECRETARY.—The  
9 Secretary may reimburse an eligible recipient for de-  
10 posits of bond proceeds in a debt service reserve that  
11 the recipient established pursuant to section  
12 5302(a)(1)(K) from amounts made available to the  
13 recipient under section 5307 or 5309.”;

14       “(q) PROHIBITED USE OF FUNDS.—Grant funds re-  
15 ceived under this chapter may not be used to pay ordinary  
16 governmental or nonproject operating expenses.”.

17 **SEC. 23. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.**

18       (a) IN GENERAL.—Section 5324 is amended to read  
19 as follows:

20 **“§ 5324. Special provisions for capital projects**

21       “(a) REAL PROPERTY AND RELOCATION SERV-  
22 ICES.—Whenever real property is acquired or furnished as  
23 a required contribution incident to a project, the Secretary  
24 shall not approve the application for financial assistance  
25 unless the applicant has made all payments and provided



1 all assistance and assurances that are required of a State  
2 agency under sections 210 and 305 of the Uniform Relo-  
3 cation Assistance and Real Property Acquisition Policies  
4 Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary  
5 must be advised of specific references to any State law  
6 that are believed to be an exception to section 301 or 302  
7 of such Act (42 U.S.C. 4651 and 4652).

8 “(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

9 “(1) IN GENERAL.—The Secretary may partici-  
10 pate in the acquisition of real property for any  
11 project that may use the property if the Secretary  
12 determines that external market forces are jeopard-  
13 izing the potential use of the property for the project  
14 and if—

15 “(A) there are offers on the open real es-  
16 tate market to convey that property for a use  
17 that is incompatible with the project under  
18 study;

19 “(B) there is an imminent threat of devel-  
20 opment or redevelopment of the property for a  
21 use that is incompatible with the project under  
22 study;

23 “(C) recent appraisals reflect a rapid in-  
24 crease in the fair market value of the property;

1           “(D) the property, because it is located  
2           near an existing transportation facility, is likely  
3           to be developed and to be needed for a future  
4           transportation improvement; or

5           “(E) the property owner can demonstrate  
6           that, for health, safety, or financial reasons, re-  
7           taining ownership of the property poses an  
8           undue hardship on the owner in comparison to  
9           other affected property owners and requests the  
10          acquisition to alleviate that hardship.

11          “(2) ENVIRONMENTAL REVIEWS.—Property ac-  
12          quired in accordance with this subsection may not be  
13          developed in anticipation of the project until all re-  
14          quired environmental reviews for the project have  
15          been completed.

16          “(3) LIMITATION.—The Secretary shall limit  
17          the size and number of properties acquired under  
18          this subsection as necessary to avoid any prejudice  
19          to the Secretary’s objective evaluation of project al-  
20          ternatives.

21          “(4) EXEMPTION.—An acquisition under this  
22          section shall be considered an exempt project under  
23          section 176 of the Clean Air Act (42 U.S.C. 7506).

24          “(c) RAILROAD CORRIDOR PRESERVATION.—

1           “(1) IN GENERAL.—The Secretary may assist  
2           an applicant to acquire railroad right-of-way before  
3           the completion of the environmental reviews for any  
4           project that may use the right-of-way if the acqui-  
5           sition is otherwise permitted under Federal law. The  
6           Secretary may establish restrictions on such an ac-  
7           quisition as the Secretary determines to be necessary  
8           and appropriate.

9           “(2) ENVIRONMENTAL REVIEWS.—Railroad  
10          right-of-way acquired under this subsection may not  
11          be developed in anticipation of the project until all  
12          required environmental reviews for the project have  
13          been completed.

14          “(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND  
15 ENVIRONMENTAL INTERESTS.—

16          “(1) IN GENERAL.—The Secretary may not ap-  
17          prove an application for financial assistance for a  
18          capital project under this chapter unless the Sec-  
19          retary determines that the project has been devel-  
20          oped in accordance with the National Environmental  
21          Policy Act of 1969 (42 U.S.C. 4321 et seq.). The  
22          Secretary’s findings under this paragraph shall be  
23          made a matter of public record.

24          “(2) COOPERATION AND CONSULTATION.—In  
25          carrying out section 5301(e), the Secretary shall co-

1       operate and consult with the Secretary of the Inte-  
2       rior and the Administrator of the Environmental  
3       Protection Agency on each project that may have a  
4       substantial impact on the environment.”.

5       (b) CONFORMING AMENDMENT.—The item relating  
6       to section 5324 in the table of sections for chapter 53 is  
7       amended to read as follows:

“5324. Special provisions for capital projects.”.

8       **SEC. 24. CONTRACT REQUIREMENTS.**

9       (a) IN GENERAL.—Section 5325 is amended to read  
10      as follows:

11     **“§ 5325. Contract requirements**

12       “(a) COMPETITION.—Recipients of assistance under  
13      this chapter shall conduct all procurement transactions in  
14      a manner that provides full and open competition as deter-  
15      mined by the Secretary.

16       “(b) ARCHITECTURAL, ENGINEERING, AND DESIGN  
17      CONTRACTS.—

18       “(1) IN GENERAL.—A contract or requirement  
19      for program management, architectural engineering,  
20      construction management, a feasibility study, and  
21      preliminary engineering, design, architectural, engi-  
22      neering, surveying, mapping, or related services for  
23      a project for which Federal assistance is provided  
24      under this chapter shall be awarded in the same  
25      manner as a contract for architectural and engineer-

ing services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

“(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

“(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

“(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

“(C) After a firm’s indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the pur-

1 poses of contract estimation, negotiation, ad-  
2 ministration, reporting, and contract payment,  
3 and shall not be limited by administrative or de  
4 facto ceilings.

5 “(D) A recipient requesting or using the  
6 cost and rate data described in subparagraph  
7 (C) shall notify any affected firm before such  
8 request or use. Such data shall be confidential  
9 and shall not be accessible or provided by the  
10 group of agencies sharing cost data under this  
11 subparagraph, except by written permission of  
12 the audited firm. If prohibited by law, such cost  
13 and rate data shall not be disclosed under any  
14 circumstances.

15 “(c) EFFICIENT PROCUREMENT.—A recipient may  
16 award a procurement contract under this chapter to other  
17 than the lowest bidder if the award furthers an objective  
18 consistent with the purposes of this chapter, including im-  
19 proved long-term operating efficiency and lower long-term  
20 costs.

21 “(d) DESIGN-BUILD PROJECTS.—

22 “(1) DEFINED TERM.—As used in this sub-  
23 section, the term ‘design-build project’—

24 “(A) means a project under which a recipi-  
25 ent enters into a contract with a seller, firm, or

1 consortium of firms to design and build an op-  
 2 erable segment of a public transportation sys-  
 3 tem that meets specific performance criteria;  
 4 and

5 “(B) may include an option to finance, or  
 6 operate for a period of time, the system or seg-  
 7 ment or any combination of designing, building,  
 8 operating, or maintaining such system or seg-  
 9 ment.

10 “(2) FINANCIAL ASSISTANCE FOR CAPITAL  
 11 COSTS.—Federal financial assistance under this  
 12 chapter may be provided for the capital costs of a  
 13 design-build project after the recipient complies with  
 14 Government requirements.

15 “(e) ROLLING STOCK.—

16 “(1) ACQUISITION.—A recipient of financial as-  
 17 sistance under this chapter may enter into a con-  
 18 tract to expend that assistance to acquire rolling  
 19 stock—

20 “(A) with a party selected through a com-  
 21 petitive procurement process; or

22 “(B) based on—

23 “(i) initial capital costs; or

24 “(ii) performance, standardization, life  
 25 cycle costs, and other factors.

1           “(2) MULTIYEAR CONTRACTS.—A recipient pro-  
2           curing rolling stock with Federal financial assistance  
3           under this chapter may make a multiyear contract,  
4           including options, to buy not more than 5 years of  
5           requirements for rolling stock and replacement  
6           parts. The Secretary shall allow a recipient to act on  
7           a cooperative basis to procure rolling stock under  
8           this paragraph and in accordance with other Federal  
9           procurement requirements.

10          “(f) EXAMINATION OF RECORDS.—Upon request, the  
11       Secretary and the Comptroller General, or any of their  
12       representatives, shall have access to and the right to exam-  
13       ine and inspect all records, documents, and papers, includ-  
14       ing contracts, related to a project for which a grant is  
15       made under this chapter.

16          “(g) GRANT PROHIBITION.—A grant awarded under  
17       this chapter may not be used to support a procurement  
18       that uses an exclusionary or discriminatory specification.

19          “(h) BUS DEALER REQUIREMENTS.—No State law  
20       requiring buses to be purchased through in-State dealers  
21       shall apply to vehicles purchased with a grant under this  
22       chapter.

23          “(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

24               “(1) IN GENERAL.—Federal financial assistance  
25       under this chapter may be provided for contracts



1       only if a recipient awards such contracts to respon-  
 2       sible contractors possessing the ability to success-  
 3       fully perform under the terms and conditions of a  
 4       proposed procurement.

5               “(2) CRITERIA.—Before making an award to a  
 6       contractor under paragraph (1), a recipient shall  
 7       consider—

8                       “(A) the integrity of the contractor;

9                       “(B) the contractor’s compliance with pub-  
 10       lic policy;

11                      “(C) the contractor’s past performance, in-  
 12       cluding the performance reported in the Con-  
 13       tractor Performance Assessment Reports re-  
 14       quired under section 5309(m)(4); and

15                      “(D) the contractor’s financial and tech-  
 16       nical resources.”.

17       (b) CONFORMING AMENDMENTS.—Chapter 53 is  
 18       amended by striking section 5326.

19   **SEC. 25. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.**

20       (a) PROJECT MANAGEMENT PLAN REQUIRE-  
 21       MENTS.—Section 5327(a) is amended—

22               (1) in paragraph (11), by striking “and” at the  
 23       end;

24               (2) in paragraph (12), by striking the period at  
 25       the end and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(13) safety and security management.”.

3 (b) LIMITATIONS ON USE OF AVAILABLE  
4 AMOUNTS.—Section 5327(c) is amended—

5 (1) by amending paragraph (1) to read as fol-  
6 lows:

7 “(1) IN GENERAL.—The Secretary may not use  
8 more than 1 percent of amounts made available for  
9 a fiscal year to carry out any of sections 5307  
10 through 5311, 5316, or 5317, or a project under the  
11 National Capital Transportation Act of 1969 (Public  
12 Law 91–143) to make a contract to oversee the con-  
13 struction of major projects under any of sections  
14 5307 through 5311, 5316, or 5317 or under that  
15 Act.”; and

16 (2) in paragraph (2)—

17 (A) by striking “(2)” and inserting the fol-  
18 lowing:

19 “(2) OTHER ALLOWABLE USES.—”; and

20 (B) by inserting “and security” after  
21 “safety”.

22 **SEC. 26. PROJECT REVIEW.**

23 Section 5328 is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (1) by striking “(1)  
 2 When the Secretary of Transportation allows a  
 3 new fixed guideway project to advance into the  
 4 alternatives analysis stage of project review, the  
 5 Secretary shall cooperate with the applicant”  
 6 and inserting the following:

7 “(1) ALTERNATIVES ANALYSIS.—The Secretary  
 8 shall cooperate with an applicant undertaking an al-  
 9 ternatives analysis under subsections (e) and (f) of  
 10 section 5309”;

11 (B) in paragraph (2)—

12 (i) by striking “(2)” and inserting the  
 13 following:

14 “(2) ADVANCEMENT TO PRELIMINARY ENGI-  
 15 NEERING STAGE.—”; and

16 (ii) by striking “is consistent with”  
 17 and inserting “meets the requirements of”;

18 (C) in paragraph (3)—

19 (i) by striking “(3)” and inserting the  
 20 following:

21 “(3) RECORD OF DECISION.—”;

22 (ii) by striking “of construction”; and

23 (iii) by adding before the period at the  
 24 end the following: “if the Secretary deter-  
 25 mines that the project meets the require-

1                   ments of subsection (e) or (f) of section  
 2                   5309”; and  
 3                   (D) by striking paragraph (4); and  
 4                   (2) by striking subsection (c).

5 **SEC. 27. INVESTIGATIONS OF SAFETY AND SECURITY RISK.**

6           (a) IN GENERAL.—Section 5329 is amended to read  
 7 as follows:

8 **“§ 5329. Investigation of safety hazards and security**  
 9 **risks**

10           “(a) IN GENERAL.—The Secretary may conduct in-  
 11 vestigations into safety hazards and security risks associ-  
 12 ated with a condition in equipment, a facility, or an oper-  
 13 ation financed under this chapter to establish the nature  
 14 and extent of the condition and how to eliminate, mitigate,  
 15 or correct it.

16           “(b) SUBMISSION OF CORRECTIVE PLAN.—If the  
 17 Secretary establishes that a safety hazard or security risk  
 18 warrants further protective measures, the Secretary shall  
 19 require the local governmental authority receiving  
 20 amounts under this chapter to submit a plan for elimi-  
 21 nating, mitigating, or correcting it.

22           “(c) WITHHOLDING OF FUNDS.—Financial assist-  
 23 ance under this chapter, in an amount to be determined  
 24 by the Secretary, may be withheld until a plan is approved  
 25 and carried out.

1 “(d) PUBLIC TRANSPORTATION SECURITY.—

2 “(1) IN GENERAL.—Not later than 90 days  
3 after the date of enactment of the Federal Public  
4 Transportation Act of 2005, the Secretary shall  
5 enter into a memorandum of understanding with the  
6 Secretary of Homeland Security to define and clarify  
7 the respective roles and responsibilities of the De-  
8 partment of Transportation and the Department of  
9 Homeland Security relating to public transportation  
10 security.

11 “(2) CONTENTS.—The memorandum of under-  
12 standing described in paragraph (1) shall—

13 “(A) establish national security standards  
14 for public transportation agencies;

15 “(B) establish funding priorities for grants  
16 from the Department of Homeland Security to  
17 public transportation agencies;

18 “(C) create a method of coordination with  
19 public transportation agencies on security mat-  
20 ters; and

21 “(D) address any other issues determined  
22 to be appropriate by the Secretary and the Sec-  
23 retary of Homeland Security.”.

1 (b) CONFORMING AMENDMENT.—The item relating  
 2 to section 5329 in the table of sections for chapter 53 is  
 3 amended to read as follows:

“5329. Investigation of safety hazards and security risks.”.

4 **SEC. 28. STATE SAFETY OVERSIGHT.**

5 (a) IN GENERAL.—Section 5330 is amended—

6 (1) by amending the heading to read as follows:

7 **“§ 5330. Withholding amounts for noncompliance**  
 8 **with State safety oversight require-**  
 9 **ments”;**

10 (2) by amending subsection (a) to read as fol-  
 11 lows:

12 “(a) APPLICATION.—This section shall only apply  
 13 to—

14 “(1) States that have rail fixed guideway public  
 15 transportation systems that are not subject to regu-  
 16 lation by the Federal Railroad Administration; and

17 “(2) States that are designing rail fixed guide-  
 18 way public transportation systems that will not be  
 19 subjected to regulation by the Federal Railroad Ad-  
 20 ministration.”;

21 (3) in subsection (d), by striking “affected  
 22 States” and inserting the following: “affected  
 23 States—

24 “(1) shall ensure uniform safety standards and  
 25 enforcement; or

1 “(2)”; and

2 (4) in subsection (f), by striking “Not later  
3 than December 18, 1992, the” and inserting “The”.

4 (b) CONFORMING AMENDMENT.—The item relating  
5 to section 5330 in the table of sections for chapter 53 is  
6 amended to read as follows:

“5330. Withholding amounts for noncompliance with State safety oversight re-  
quirements.”.

7 **SEC. 29. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**  
8 **LENCE AGAINST PUBLIC TRANSPORTATION**  
9 **SYSTEMS.**

10 (a) IN GENERAL.—Section 1993 of title 18, United  
11 States Code, is amended—

12 (1) by striking “mass” each place it appears  
13 and inserting “public”;

14 (2) in subsection (a)(5), by inserting “control-  
15 ling,” after “operating”; and

16 (3) in subsection (c)(5), by striking  
17 “5302(a)(7) of title 49, United States Code,” and  
18 inserting “5302(a) of title 49,”.

19 (b) CONFORMING AMENDMENT.—The table of con-  
20 tents for chapter 97 of title 18, United States Code is  
21 amended by amending the item related to section 1993  
22 to read as follows:

“1993. Terrorist attacks and other acts of violence against public transportation  
systems.”.

1 **SEC. 30. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE**

2 **TESTING.**

3 Section 5331 is amended—

4 (1) in subsection (a)(3), by inserting before the  
5 period at the end the following: “or sections 2303a,  
6 7101(i), or 7302(e) of title 46. The Secretary may  
7 also decide that a form of public transportation is  
8 covered adequately, for employee alcohol and con-  
9 trolled substances testing purposes, under the alco-  
10 hol and controlled substance statutes or regulations  
11 of an agency within the Department of Transpor-  
12 tation or other Federal agency”; and

13 (2) in subsection (f), by striking paragraph (3).

14 **SEC. 31. EMPLOYEE PROTECTIVE ARRANGEMENTS.**

15 Section 5333(b) is amended—

16 (1) in paragraph (3), by striking the period at  
17 the end and inserting “: *Provided, That—*

18 “(A) the protective period shall not exceed 4  
19 years; and

20 “(B) the separation allowance shall not exceed  
21 12 months.”; and

22 (2) by adding at the end the following:

23 “(4) An arrangement under this subsection shall not  
24 guarantee continuation of employment as a result of a  
25 change in private contractors through competitive bidding



1 unless such continuation is otherwise required under sub-  
 2 paragraph (A), (B), or (D) of paragraph (2).

3 “(5) Fair and equitable arrangements to protect the  
 4 interests of employees utilized by the Secretary of Labor  
 5 for assistance to purchase like-kind equipment or facilities,  
 6 and amendments to existing assistance agreements, shall  
 7 be certified without referral.

8 “(6) Nothing in this subsection shall affect the level  
 9 of protection provided to freight railroad employees.”.

10 **SEC. 32. ADMINISTRATIVE PROCEDURES.**

11 Section 5334 is amended—

12 (1) in subsection (a)—

13 (A) in paragraph (1), by striking “5309–  
 14 5311 of this title” and all that follows and in-  
 15 serting “5309 through 5311;”;

16 (B) in paragraph (9), by striking “and” at  
 17 the end;

18 (C) in paragraph (10), by striking the pe-  
 19 riod at the end and inserting “; and”; and

20 (D) by inserting at the end the following:

21 “(11) issue regulations as necessary to carry  
 22 out the purposes of this chapter.”;

23 (2) by redesignating subsections (b), (c), (d),  
 24 (e), (f), (g), (h), (i), and (j) as subsections (c), (d),  
 25 (e), (f), (g), (h), (i), (j), and (k), respectively;

1 (3) by adding after subsection (a) the following:

2 “(b) PROHIBITIONS AGAINST REGULATING OPER-  
3 ATIONS AND CHARGES.—

4 “(1) IN GENERAL.—Except as directed by the  
5 President for purposes of national defense or in the  
6 event of a national or regional emergency, the Sec-  
7 retary may not regulate—

8 “(A) the operation, routes, or schedules of  
9 a public transportation system for which a  
10 grant is made under this chapter; or

11 “(B) the rates, fares, tolls, rentals, or  
12 other charges prescribed by any public or pri-  
13 vate transportation provider.

14 “(2) COMPLIANCE WITH AGREEMENT.—Noth-  
15 ing in this subsection shall prevent the Secretary  
16 from requiring a recipient of funds under this chap-  
17 ter to comply with the terms and conditions of its  
18 Federal assistance agreement.”; and

19 (4) in subsection (j)(1), as redesignated, by  
20 striking “carry out section 5312(a) and (b)(1) of  
21 this title” and inserting “advise and assist the Sec-  
22 retary in carrying out section 5312(a)”.

23 **SEC. 33. REPORTS AND AUDITS.**

24 Section 5335 is amended—

25 (1) by striking subsection (b); and

1 (2) in subsection (a)—

2 (A) in paragraph (1), by striking “(1”;

3 and

4 (B) in paragraph (2), by striking “(2) The

5 Secretary may make a grant under section

6 5307 of this title” and inserting the following:

7 “(b) REPORTING AND UNIFORM SYSTEMS.—The Sec-  
8 retary may award a grant under section 5307 or 5311”.

9 **SEC. 34. APPORTIONMENTS OF APPROPRIATIONS FOR FOR-**  
10 **MULA GRANTS.**

11 Section 5336 is amended—

12 (1) by striking subsections (d), (h), and (k);

13 (2) by redesignating subsections (a) through (c)  
14 as subsections (b) through (d), respectively;

15 (3) by redesignating subsection (i) and (j) as  
16 subsection (h) and (i) respectively;

17 (4) by adding before subsection (b), as redesign-  
18 nated, the following:

19 “(a) APPORTIONMENTS.—Of the amounts made  
20 available for each fiscal year under subsections  
21 (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

22 “(1) there shall be apportioned, in fiscal year  
23 2006 and each fiscal year thereafter, \$35,000,000 to  
24 certain urbanized areas with populations of less than  
25 200,000 in accordance with subsection (k); and

“(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).”;

(5) in subsection (b), as redesignated—

(A) by striking “Of the amount made available or appropriated under section 5338(a) of this title” and inserting “Of the amount apportioned under subsection (a)(3)”; and

(B) in paragraph (2), by striking “subsections (b) and (c) of this section” and inserting “subsections (c) and (d)”;

(6) in subsection (c)(2), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2)”;

(7) in subsection (d), as redesignated, by striking “subsection (a)(2) of this section” and inserting “subsection (b)(2)”;

(8) in subsection (e)(1), by striking “subsections (a) and (h)(2) of section 5338 of this title” and inserting “subsections (a) and (b) of section 5338”;

(9) in subsection (g), by striking “subsection (a)(1) of this section” each place it appears and inserting “subsection (b)(1)”; and

(10) by adding at the end the following:

1       “(j) SMALL TRANSIT INTENSIVE CITIES FACTORS.—

2       The amount apportioned under subsection (a)(1) shall be  
3       apportioned to urbanized areas as follows:

4               “(1) The Secretary shall calculate a factor  
5       equal to the sum of revenue vehicle hours operated  
6       within urbanized areas with a population of between  
7       200,000 and 1,000,000 divided by the sum of the  
8       population of all such urbanized areas.

9               “(2) The Secretary shall designate as eligible  
10       for an apportionment under this subsection all ur-  
11       banized areas with a population of under 200,000  
12       for which the number of revenue vehicle hours oper-  
13       ated within the urbanized area divided by the popu-  
14       lation of the urbanized area exceeds the factor cal-  
15       culated under paragraph (1).

16               “(3) For each urbanized area qualifying for an  
17       apportionment under paragraph (2), the Secretary  
18       shall calculate an amount equal to the product of the  
19       population of that urbanized area and the factor cal-  
20       culated under paragraph (1).

21               “(4) For each urbanized area qualifying for an  
22       apportionment under paragraph (2), the Secretary  
23       shall calculate an amount equal to the difference be-  
24       tween the number of revenue vehicle hours within

1       that urbanized area less the amount calculated in  
2       paragraph (3).

3           “(5) Each urbanized area qualifying for an ap-  
4       portionment under paragraph (2) shall receive an  
5       amount equal to the amount to be apportioned  
6       under this subsection multiplied by the amount cal-  
7       culated for that urbanized area under paragraph (4)  
8       divided by the sum of the amounts calculated under  
9       paragraph (4) for all urbanized areas qualifying for  
10      an apportionment under paragraph (2).

11      “(k) STUDY ON INCENTIVES IN FORMULA PRO-  
12      GRAMS.—

13           “(1) STUDY.—The Secretary shall conduct a  
14       study to assess the feasibility and appropriateness of  
15       developing and implementing an incentive funding  
16       system under sections 5307 and 5311 for operators  
17       of public transportation.

18           “(2) REPORT.—

19           “(A) IN GENERAL.—Not later than 1 year  
20       after the date of enactment of the Federal Pub-  
21       lic Transportation Act of 2005, the Secretary  
22       shall submit a report on the results of the study  
23       conducted under paragraph (1) to the Com-  
24       mittee on Banking, Housing, and Urban Affairs  
25       of the Senate and the Committee on Transpor-

1           tation and Infrastructure of the House of Rep-  
2           resentatives.

3           “(B) CONTENTS.—The report submitted  
4           under subparagraph (A) shall include—

5                   “(i) an analysis of the availability of  
6                   appropriate measures to be used as a basis  
7                   for the distribution of incentive payments;

8                   “(ii) the optimal number and size of  
9                   any incentive programs;

10                  “(iii) what types of systems should  
11                  compete for various incentives;

12                  “(iv) how incentives should be distrib-  
13                  uted; and

14                  “(v) the likely effects of the incentive  
15                  funding system.”.

16 **SEC. 35. APPORTIONMENTS FOR FIXED GUIDEWAY MOD-**  
17 **ERNIZATION.**

18       Section 5337 is amended—

19           (1) in subsection (a), by striking “for each of  
20       fiscal years 1998 through 2003”; and

21           (2) by striking “section 5336(b)(2)(A)” each  
22       place it appears and inserting “section  
23       5336(c)(2)(A)”.

24 **SEC. 36. AUTHORIZATIONS.**

25       Section 5338 is amended to read as follows:

1 **“§ 5338. Authorizations**

2 “(a) FISCAL YEAR 2005.—

3 “(1) FORMULA GRANTS.—

4 “(A) TRUST FUND.—For fiscal year 2005,  
5 \$3,499,927,776 shall be available from the  
6 Mass Transit Account of the Highway Trust  
7 Fund to carry out sections 5307, 5309, 5310,  
8 and 5311 of this chapter and section 3038 of  
9 the Transportation Equity Act for the 21st  
10 Century (49 U.S.C. 5310 note).

11 “(B) GENERAL FUND.—In addition to the  
12 amounts made available under subparagraph  
13 (A), there are authorized to be appropriated  
14 \$499,989,824 for fiscal year 2005 to carry out  
15 sections 5307, 5309, 5310, and 5311 of this  
16 chapter and section 3038 of the Transportation  
17 Equity Act for the 21st Century (49 U.S.C.  
18 5310 note).

19 “(C) ALLOCATION OF FUNDS.—Of the  
20 amounts made available or appropriated under  
21 this paragraph—

22 “(i) \$4,811,150 shall be available to  
23 the Alaska Railroad for improvements to  
24 its passenger operations under section  
25 5307;



1           “(ii) \$6,894,400 shall be available to  
2           provide over-the-road bus accessibility  
3           grants under section 3038 of the Trans-  
4           portation Equity Act for the 21st Century  
5           (49 U.S.C. 5310 note);

6           “(iii) \$94,526,689 shall be available  
7           to provide transportation services to elderly  
8           individuals and individuals with disabilities  
9           under section 5310;

10          “(iv) \$173,040,330 shall be available  
11          to provide financial assistance for other  
12          than urbanized areas under section 5311;

13          “(v) \$3,325,048,327 shall be available  
14          to provide financial assistance for urban-  
15          ized areas under section 5307;

16          “(vi) \$49,600,000 shall be available to  
17          provide financial assistance for buses and  
18          bus facilities under section 5309; and

19          “(vii) \$345,996,704 shall be allocated  
20          in accordance with section 5340 to provide  
21          financial assistance for urbanized areas  
22          under section 5307 and other than urban-  
23          ized areas under section 5311.”.

24          “(2) JOB ACCESS AND REVERSE COMMUTE.—

1           “(A) TRUST FUND.—For fiscal year 2005,  
2           \$108,500,000 shall be available from the Mass  
3           Transit Account of the Highway Trust Fund to  
4           carry out section 3037 of the Transportation  
5           Equity Act for the 21st Century (49 U.S.C.  
6           5309 note).

7           “(B) GENERAL FUND.—In addition to the  
8           amounts made available under paragraph (A),  
9           there are authorized to be appropriated  
10          \$15,500,000 for fiscal year 2005 to carry out  
11          section 3037 of the Transportation Equity Act  
12          of the 21st Century (49 U.S.C. 5309 note).

13          “(3) CAPITAL PROGRAM GRANTS.—

14          “(A) TRUST FUND.—For fiscal year 2005,  
15          \$2,898,100,224 shall be available from the  
16          Mass Transit Account of the Highway Trust  
17          Fund to carry out section 5309.

18          “(B) GENERAL FUND.—In addition to the  
19          amounts made available under subparagraph  
20          (A), there are authorized to be appropriated  
21          \$414,014,176 for fiscal year 2005 to carry out  
22          section 5309.

23          “(4) PLANNING.—

24          “(A) TRUST FUND.—For fiscal year 2005,  
25          \$63,364,000 shall be available from the Mass

1 Transit Account of the Highway Trust Fund to  
2 carry out section 5308.

3 “(B) GENERAL FUND.—In addition to the  
4 amounts made available under subparagraph  
5 (A), there are authorized to be appropriated  
6 \$9,052,000 for fiscal year 2005 to carry out  
7 section 5308.

8 “(C) ALLOCATION OF FUNDS.—Of the  
9 amounts made available or appropriated under  
10 this paragraph—

11 “(i) 82.72 percent shall be allocated  
12 for metropolitan planning under section  
13 5308(c); and

14 “(ii) 17.28 percent shall be allocated  
15 for State planning under section 5308(d).

16 “(5) RESEARCH.—

17 “(A) TRUST FUND.—For fiscal year 2005,  
18 \$47,740,000 shall be available from the Mass  
19 Transit Account of the Highway Trust Fund to  
20 carry out sections 5311(b), 5312, 5313, 5314,  
21 5315, and 5322.

22 “(B) GENERAL FUND.—In addition to the  
23 amounts made available under subparagraph  
24 (A), there are authorized to be appropriated  
25 \$6,820,000 for fiscal year 2005 to carry out

1 sections 5311(b), 5312, 5313, 5314, 5315, and  
2 5322.

3 “(C) ALLOCATION OF FUNDS.—Of the  
4 funds made available or appropriated under this  
5 paragraph—

6 “(i) not less than \$3,968,000 shall be  
7 available to carry out programs of the Na-  
8 tional Transit Institute under section  
9 5315;

10 “(ii) not less than \$5,208,000 shall be  
11 available to carry out section 5311(b)(2);

12 “(iii) not less than \$8,184,000 shall  
13 be available to carry out section 5313; and

14 “(iv) the remainder shall be available  
15 to carry out national research and tech-  
16 nology programs under sections 5312,  
17 5314, and 5322.

18 “(6) UNIVERSITY TRANSPORTATION RE-  
19 SEARCH.—

20 “(A) TRUST FUND.—For fiscal year 2005,  
21 \$5,208,000 shall be available from the Mass  
22 Transit Account of the Highway Trust Fund to  
23 carry out sections 5505 and 5506.

24 “(B) GENERAL FUND.—In addition to  
25 amounts made available under subparagraph

1 (A), there are authorized to be appropriated  
2 \$744,000 for fiscal year 2005 to carry out sec-  
3 tions 5505 and 5506.

4 “(C) ALLOCATION OF FUNDS.—Of the  
5 amounts made available or appropriated under  
6 this paragraph—

7 “(i) \$1,984,000 shall be available for  
8 grants under 5506(f)(5) to the institution  
9 identified in section 5505(j)(3)(E), as in  
10 effect on the day before the date of enact-  
11 ment of the Federal Public Transportation  
12 Act of 2005;

13 “(ii) \$1,984,000 shall be available for  
14 grants under section 5505(d) to the insti-  
15 tution identified in section 5505(j)(4)(A),  
16 as in effect on the date specified in clause  
17 (i); and

18 “(iii) \$1,984,000 shall be available for  
19 grants under section 5505(d) to the insti-  
20 tution identified in section 5505(j)(4)(F),  
21 as in effect on the date specified in sub-  
22 clause (I).

23 “(D) SPECIAL RULE.—Nothing in this  
24 paragraph shall be construed to limit the trans-

1 portation research conducted by the centers re-  
2 ceiving financial assistance under this section.

3 “(7) ADMINISTRATION.—

4 “(A) TRUST FUND.—For fiscal year 2005,  
5 \$67,704,000 shall be available from the Mass  
6 Transit Account of the Highway Trust Fund to  
7 carry out section 5334.

8 “(B) GENERAL FUND.—In addition to  
9 amounts made available under subparagraph  
10 (A), there are authorized to be appropriated  
11 \$9,672,000 for fiscal year 2005 to carry out  
12 section 5334.

13 “(8) GRANTS AS CONTRACTUAL OBLIGA-  
14 TIONS.—

15 “(A) GRANTS FINANCED FROM HIGHWAY  
16 TRUST FUND.—A grant or contract that is ap-  
17 proved by the Secretary and financed with  
18 amounts made available under paragraph  
19 (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A),  
20 or (7)(A) is a contractual obligation of the  
21 United States Government to pay the Federal  
22 share of the cost of the project.

23 “(B) GRANTS FINANCED FROM GENERAL  
24 FUND.—A grant or contract that is approved by  
25 the Secretary and financed with amounts ap-

1           appropriated in advance under paragraph (1)(B),  
 2           (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or  
 3           (7)(B) is a contractual obligation of the United  
 4           States Government to pay the Federal share of  
 5           the cost of the project only to the extent that  
 6           amounts are appropriated for such purpose by  
 7           an Act of Congress.

8           “(9) AVAILABILITY OF AMOUNTS.—Amounts  
 9           made available or appropriated under paragraphs  
 10          (1) through (6) shall remain available until ex-  
 11          pended.”.

12          “(b) FORMULA GRANTS AND RESEARCH.—

13               “(1) IN GENERAL.—There shall be available  
 14               from the Mass Transit Account of the Highway  
 15               Trust Fund to carry out sections 5307, 5308, 5309,  
 16               5310 through 5316, 5322, 5335, 5340, and 5505 of  
 17               this title, and sections 3037 and 3038 of the Federal  
 18               Transit Act of 1998 (112 Stat. 387 et seq.)—

19                       “(A) \$5,943,059,000 for fiscal year 2006;

20                       “(B) \$6,279,868,000 for fiscal year 2007;

21                       “(C) \$6,862,064,000 for fiscal year 2008;

22                       and

23                       “(D) \$7,476,967,000 for fiscal year 2009.

1           “(2) ALLOCATION OF FUNDS.—Of the amounts  
2           made available under paragraph (1) for each fiscal  
3           year—

4                   “(A) 0.092 percent shall be available for  
5                   grants to the Alaska Railroad under section  
6                   5307 for improvements to its passenger oper-  
7                   ations;

8                   “(B) 1.75 percent shall be available to  
9                   carry out section 5308;

10                   “(C) 2.05 percent shall be available to pro-  
11                   vide financial assistance for job access and re-  
12                   verse commute projects under section 3037 of  
13                   the Federal Transit Act of 1998 (49 U.S.C.  
14                   5309 note);

15                   “(D) 3.00 percent shall be available to pro-  
16                   vide financial assistance for services for elderly  
17                   persons and persons with disabilities under sec-  
18                   tion 5310;

19                   “(E) 0.125 percent shall be available to  
20                   carry out section 3038 of the Transportation  
21                   Equity Act for the 21st Century (49 U.S.C.  
22                   5310 note);

23                   “(F) 6.25 percent shall be available to pro-  
24                   vide financial assistance for other than urban-  
25                   ized areas under section 5311;



1           “(G) 0.89 percent shall be available to  
2           carry out transit cooperative research programs  
3           under section 5313, the National Transit Insti-  
4           tute under section 5315, university research  
5           centers under section 5505, and national re-  
6           search programs under sections 5312, 5313,  
7           5314, and 5322, of which—

8           “(i) 17.0 percent shall be allocated to  
9           carry out transit cooperative research pro-  
10          grams under section 5313;

11          “(ii) 7.5 percent shall be allocated to  
12          carry out programs under the National  
13          Transit Institute under section 5315, in-  
14          cluding not more than \$1,000,000 to carry  
15          out section 5315(a)(16);

16          “(iii) 11.0 percent shall be allocated  
17          to carry out the university centers program  
18          under section 5505; and

19          “(iv) any funds made available under  
20          this subparagraph that are not allocated  
21          under clauses (i) through (iii) shall be allo-  
22          cated to carry out national research pro-  
23          grams under sections 5312, 5313, 5314,  
24          and 5322;

1           “(H) \$25,000,000 shall be available for  
2 each of the fiscal years 2006 through 2009 to  
3 carry out section 5316;

4           “(I) there shall be available to carry out  
5 section 5335—

6                   “(i) \$3,900,000 in fiscal year 2006;

7                   “(ii) \$4,200,000 in fiscal year 2007;

8                   “(iii) \$4,600,000 in fiscal year 2008;

9                   and

10                   “(iv) \$5,000,000 in fiscal year 2009;

11           “(J) 6.25 percent shall be allocated in ac-  
12 cordance with section 5340 to provide financial  
13 assistance for urbanized areas under section  
14 5307 and other than urbanized areas under sec-  
15 tion 5311;

16           “(K) 22.0 percent shall be allocated in ac-  
17 cordance with section 5337 to provide financial  
18 assistance under section 5309(i)(3); and

19           “(L) any amounts not made available  
20 under subparagraphs (A) through (K) shall be  
21 allocated in accordance with section 5336 to  
22 provide financial assistance for urbanized areas  
23 under section 5307.

24           “(3) UNIVERSITY CENTERS PROGRAM.—

“(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), \$1,000,000 shall be available in each of the fiscal years 2006 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

“(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

“(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university’s contribution to public transportation.

“(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

“(A) \$796,977,000 for fiscal year 2006;

“(B) \$842,144,000 for fiscal year 2007;

1 “(C) \$920,218,000 for fiscal year 2008;

2 and

3 “(D) \$1,002,678,000 for fiscal year 2009.

4 “(c) MAJOR CAPITAL INVESTMENT GRANTS.—There  
5 are authorized to be appropriated to carry out section  
6 5309(i)(2)(A)—

7 “(1) \$1,386,523,000 for fiscal year 2006;

8 “(2) \$1,465,100,000 for fiscal year 2007;

9 “(3) \$1,600,927,000 for fiscal year 2008; and

10 “(4) \$1,744,385,000 for fiscal year 2009.

11 “(d) ADMINISTRATION.—There shall be available  
12 from the Mass Transit Account of the Highway Trust  
13 Fund to carry out section 5334—

14 “(1) \$82,086,000 for fiscal year 2006;

15 “(2) \$86,738,000 for fiscal year 2007;

16 “(3) \$94,779,000 for fiscal year 2008; and

17 “(4) \$103,273,000 for fiscal year 2009.

18 “(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

19 “(1) MASS TRANSIT ACCOUNT FUNDS.—A grant  
20 or contract approved by the Secretary that is fi-  
21 nanced with amounts made available under sub-  
22 section (b)(1), (b)(4), or (d) is a contractual obliga-  
23 tion of the United States Government to pay the  
24 Federal share of the cost of the project.

1           “(2) APPROPRIATED FUNDS.—A grant or con-  
 2           tract approved by the Secretary that is financed with  
 3           amounts made available under subsection (c) is a  
 4           contractual obligation of the United States Govern-  
 5           ment to pay the Federal share of the cost of the  
 6           project only to the extent that amounts are appro-  
 7           priated in advance for such purpose by an Act of  
 8           Congress.

9           “(f) AVAILABILITY OF AMOUNTS.—Amounts made  
 10          available by or appropriated under subsections (b) and (c)  
 11          shall remain available until expended.”.

12   **SEC. 37. APPORTIONMENTS BASED ON GROWING STATES**  
 13                           **FORMULA FACTORS.**

14          (a) IN GENERAL.—Chapter 53 is amended by adding  
 15          at the end the following:

16   **“§ 5340. Apportionments based on growing States and**  
 17                           **high density State formula factors**

18          “(a) DEFINITION.—In this section, the term ‘State’  
 19          shall mean each of the 50 States of the United States.

20          “(b) ALLOCATION.—Of the amounts made available  
 21          for each fiscal year under section 5338(b)(2)(J), the Sec-  
 22          retary shall apportion—

23                  “(1) 50 percent to States and urbanized areas  
 24                  in accordance with subsection (c); and

1           “(2) 50 percent to States and urbanized areas  
2           in accordance with subsection (d).

3           “(c) GROWING STATE APPORTIONMENTS.—

4           “(1) APPORTIONMENT AMONG STATES.—The  
5           amounts apportioned under subsection (b)(1) shall  
6           provide each State with an amount equal to the total  
7           amount apportioned multiplied by a ratio equal to  
8           the population of that State forecast for the year  
9           that is 15 years after the most recent decennial cen-  
10          sus, divided by the total population of all States  
11          forecast for the year that is 15 years after the most  
12          recent decennial census. Such forecast shall be based  
13          on the population trend for each State between the  
14          most recent decennial census and the most recent  
15          estimate of population made by the Secretary of  
16          Commerce.

17          “(2) APPORTIONMENTS BETWEEN URBANIZED  
18          AREAS AND OTHER THAN URBANIZED AREAS IN  
19          EACH STATE.—

20                 “(A) IN GENERAL.—The Secretary shall  
21                 apportion amounts to each State under para-  
22                 graph (1) so that urbanized areas in that State  
23                 receive an amount equal to the amount appor-  
24                 tioned to that State multiplied by a ratio equal  
25                 to the sum of the forecast population of all ur-

1           banized areas in that State divided by the total  
2           forecast population of that State. In making the  
3           apportionment under this subparagraph, the  
4           Secretary shall utilize any available forecasts  
5           made by the State. If no forecasts are available,  
6           the Secretary shall utilize data on urbanized  
7           areas and total population from the most recent  
8           decennial census.

9           “(B) REMAINING AMOUNTS.—Amounts re-  
10          maining for each State after apportionment  
11          under subparagraph (A) shall be apportioned to  
12          that State and added to the amount made avail-  
13          able for grants under section 5311.

14          “(3) APPORTIONMENTS AMONG URBANIZED  
15          AREAS IN EACH STATE.—The Secretary shall appor-  
16          tion amounts made available to urbanized areas in  
17          each State under paragraph (2)(A) so that each ur-  
18          banized area receives an amount equal to the  
19          amount apportioned under paragraph (2)(A) multi-  
20          plied by a ratio equal to the population of each ur-  
21          banized area divided by the sum of populations of all  
22          urbanized areas in the State. Amounts apportioned  
23          to each urbanized area shall be added to amounts  
24          apportioned to that urbanized area under section

1       5336, and made available for grants under section  
2       5307.

3       “(d) HIGH DENSITY STATE APPORTIONMENTS.—  
4       Amounts to be apportioned under subsection (b)(2) shall  
5       be apportioned as follows:

6               “(1) ELIGIBLE STATES.—The Secretary shall  
7       designate as eligible for an apportionment under this  
8       subsection all States with a population density in ex-  
9       cess of 370 persons per square mile.

10              “(2) STATE URBANIZED LAND FACTOR.—For  
11       each State qualifying for an apportionment under  
12       paragraph (1), the Secretary shall calculate an  
13       amount equal to—

14                      “(A) the total land area of the State (in  
15                      square miles); multiplied by

16                      “(B) 370; multiplied by

17                      “(C)(i) the population of the State in ur-  
18                      banized areas; divided by

19                      “(ii) the total population of the State.

20              “(3) STATE APPORTIONMENT FACTOR.—For  
21       each State qualifying for an apportionment under  
22       paragraph (1), the Secretary shall calculate an  
23       amount equal to the difference between the total  
24       population of the State less the amount calculated in  
25       paragraph (2).



1           “(4) STATE APPORTIONMENT.—Each State  
2           qualifying for an apportionment under paragraph  
3           (1) shall receive an amount equal to the amount to  
4           be apportioned under this subsection multiplied by  
5           the amount calculated for the State under paragraph  
6           (3) divided by the sum of the amounts calculated  
7           under paragraph (3) for all States qualifying for an  
8           apportionment under paragraph (1).

9           “(5) APPORTIONMENTS BETWEEN URBANIZED  
10          AREAS AND OTHER THAN URBANIZED AREAS IN  
11          EACH STATE.—

12           “(A) IN GENERAL.—The Secretary shall  
13           apportion amounts apportioned to each State  
14           under paragraph (4) so that urbanized areas in  
15           that State receive an amount equal to the  
16           amount apportioned to that State multiplied by  
17           a ratio equal to the sum of the population of all  
18           urbanized areas in that State divided by the  
19           total population of that State.

20           “(B) REMAINING AMOUNTS.—Amounts re-  
21           maining for each State after apportionment  
22           under subparagraph (a) shall be apportioned to  
23           that State and added to the amount made avail-  
24           able for grants under section 5311.

1           “(6) APPORTIONMENTS AMONG URBANIZED  
 2           AREAS IN EACH STATE.—The Secretary shall appor-  
 3           tion amounts made available to urbanized areas in  
 4           each State under paragraph (5)(A) so that each ur-  
 5           banized area receives an amount equal to the  
 6           amount apportioned under paragraph (5)(A) multi-  
 7           plied by a ratio equal to the population of each ur-  
 8           banized area divided by the sum of populations of all  
 9           urbanized areas in the State. Amounts apportioned  
 10          to each urbanized area shall be added to amounts  
 11          apportioned to that urbanized area under section  
 12          5336, and made available for grants under section  
 13          5307.”.

14          (b) CONFORMING AMENDMENT.—The table of sec-  
 15          tions for chapter 53 is amended by adding at the end the  
 16          following:

“5340. Apportionments based on growing States and high density States for-  
 mula factors.”.

17 **SEC. 38. JOB ACCESS AND REVERSE COMMUTE GRANTS.**

18          Section 3037 of the Federal Transit Act of 1998 (49  
 19          U.S.C. 5309 note) is amended—

20               (1) in subsection (b)—

21                       (A) in paragraph (1)—

22                               (i) by striking “means an individual”

23                               and inserting the following: “means—

24                               “(A) an individual”; and

1 (ii) by striking the period at the end  
2 and inserting “; or

3 “(B) an individual who is eligible for as-  
4 sistance under the State program of Temporary  
5 Assistance to Needy Families funded under  
6 part A of title IV of the Social Security Act (42  
7 U.S.C. 601 et. seq.) in the State in which the  
8 recipient of a grant under this section is lo-  
9 cated.”; and

10 (B) in paragraph (2), by striking “develop-  
11 ment of” each place it appears and inserting  
12 “development and provision of”;

13 (2) in subsection (i), by amending paragraph  
14 (2) to read as follows:

15 “(2) COORDINATION.—

16 “(A) IN GENERAL.—The Secretary shall  
17 coordinate activities under this section with re-  
18 lated activities under programs of other Federal  
19 departments and agencies.

20 “(B) CERTIFICATION.—A recipient of  
21 funds under this section shall certify that—

22 “(i) the project has been derived from  
23 a locally developed, coordinated public  
24 transit human services transportation plan;  
25 and

1 “(ii) the plan was developed through a  
2 process that included representatives of  
3 public, private, and nonprofit transpor-  
4 tation and human services providers and  
5 participation by the public.”;

6 (3) by amending subsection (j) to read as fol-  
7 lows:

8 “(j) GRANT REQUIREMENTS.—

9 “(1) IN GENERAL.—

10 “(A) URBANIZED AREAS.—A grant award-  
11 ed under this section to a public agency or pri-  
12 vate company engaged in public transportation  
13 in an urbanized area shall be subject to the all  
14 of the terms and conditions to which a grant  
15 awarded under section 5307 of title 49, United  
16 States Code, is subject, to the extent the Sec-  
17 retary considers appropriate.

18 “(B) OTHER THAN URBANIZED AREAS.—A  
19 grant awarded under this section to a public  
20 agency or a private company engaged in public  
21 transportation in an area other than urbanized  
22 areas shall be subject to all of the terms and  
23 conditions to which a grant awarded under sec-  
24 tion 5311 of title 49, United States Code, is

1 subject, to the extent the Secretary considers  
2 appropriate.

3 “(C) NONPROFIT ORGANIZATIONS.—A  
4 grant awarded under this section to a private  
5 nonprofit organization shall be subject to all of  
6 the terms and conditions to which a grant made  
7 under section 5310 of title 49, United States  
8 Code, is subject, to the extent the Secretary  
9 considers appropriate.

10 “(2) SPECIAL WARRANTY.—

11 “(A) IN GENERAL.—Section 5333(b) of  
12 title 49, United States Code, shall apply to  
13 grants under this section if the Secretary of  
14 Labor utilizes a Special Warranty that provides  
15 a fair and equitable arrangement to protect the  
16 interests of employees.

17 “(B) WAIVER.—The Secretary may waive  
18 the applicability of the Special Warranty under  
19 subparagraph (A) for private non-profit recipi-  
20 ents on a case-by-case basis as the Secretary  
21 considers appropriate.”; and

22 (4) by striking subsections (k) and (l).

1 **SEC. 39. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.**

2 (a) SECTION HEADING.—The section heading for  
3 section 3038 of the Federal Transit Act of 1998 (49  
4 U.S.C. 5310 note), is amended to read as follows:

5 **“SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PRO-**  
6 **GRAM.”.**

7 (b) FUNDING.—Section 3038(g) of the Federal Tran-  
8 sit Act of 1998 (49 U.S.C. 5310 note) is amended to read  
9 as follows:

10 “(g) FUNDING.—Of the amounts made available for  
11 each fiscal year under subsections (a)(1)(C)(iii) and  
12 (b)(2)(E) of section 5338 of title 49, United States  
13 Code—

14 “(1) 75 percent shall be available, and shall re-  
15 main available until expended, for operators of over-  
16 the-road buses, used substantially or exclusively in  
17 intercity, fixed-route over-the-road bus service, to fi-  
18 nance the incremental capital and training costs of  
19 the Department of Transportation’s final rule re-  
20 garding accessibility of over-the-road buses; and

21 “(2) 25 percent shall be available, and shall re-  
22 main available until expended, for operators of over-  
23 the-road bus service not described in paragraph (1),  
24 to finance the incremental capital and training costs  
25 of the Department of Transportation’s final rule re-  
26 garding accessibility of over-the-road buses.”.

1 (c) CONFORMING AMENDMENT.—The item relating  
 2 to section 3038 in the table of contents for the Transpor-  
 3 tation Equity Act for the 21st Century (Public Law 105–  
 4 178) is amended to read as follows:

“Sec. 3038. Over-the-road bus accessibility program.”.

5 **SEC. 40. ALTERNATIVE TRANSPORTATION IN PARKS AND**  
 6 **PUBLIC LANDS.**

7 (a) IN GENERAL.—Chapter 53 is amended by insert-  
 8 ing after section 5315 the following:

9 **“§ 5316. Alternative transportation in parks and pub-**  
 10 **lic lands**

11 **“(a) IN GENERAL.—**

12 **“(1) AUTHORIZATION.—**

13 **“(A) IN GENERAL.—**The Secretary, in con-  
 14 sultation with the Secretary of the Interior,  
 15 may award a grant or enter into a contract, co-  
 16 operative agreement, interagency agreement,  
 17 intraagency agreement, or other transaction to  
 18 carry out a qualified project under this section  
 19 to enhance the protection of America’s National  
 20 Parks and public lands and increase the enjoy-  
 21 ment of those visiting the parks and public  
 22 lands by ensuring access to all, including per-  
 23 sons with disabilities, improving conservation  
 24 and park and public land opportunities in  
 25 urban areas through partnering with state and

1 local governments, and improving park and  
2 public land transportation infrastructure.

3 “(B) CONSULTATION WITH OTHER AGEN-  
4 CIES.—To the extent that projects are proposed  
5 or funded in eligible areas that are not within  
6 the jurisdiction of the Department of the Inte-  
7 rior, the Secretary of the Interior shall consult  
8 with the heads of the relevant Federal land  
9 management agencies in carrying out the re-  
10 sponsibilities under this section.

11 “(2) USE OF FUNDS.—A grant, cooperative  
12 agreement, interagency agreement, intraagency  
13 agreement, or other transaction for a qualified  
14 project under this section shall be available to fi-  
15 nance the leasing of equipment and facilities for use  
16 in public transportation, subject to any regulation  
17 that the Secretary may prescribe limiting the grant  
18 or agreement to leasing arrangements that are more  
19 cost-effective than purchase or construction.

20 “(b) DEFINITIONS.—In this section, the following  
21 definitions shall apply:

22 “(1) ELIGIBLE AREA.—The term ‘eligible area’  
23 means any federally owned or managed park, refuge,  
24 or recreational area that is open to the general pub-  
25 lic, including—



1           “(A) a unit of the National Park System;

2           “(B) a unit of the National Wildlife Ref-  
3           uge System;

4           “(C) a recreational area managed by the  
5           Bureau of Land Management; and

6           “(D) a recreation area managed by the  
7           Bureau of Reclamation.

8           “(2) FEDERAL LAND MANAGEMENT AGENCY.—

9           The term ‘Federal land management agency’ means  
10          a Federal agency that manages an eligible area.

11          “(3) ALTERNATIVE TRANSPORTATION.—The  
12          term ‘alternative transportation’ means transpor-  
13          tation by bus, rail, or any other publicly or privately  
14          owned conveyance that provides to the public general  
15          or special service on a regular basis, including sight-  
16          seeing service.

17          “(4) QUALIFIED PARTICIPANT.—The term  
18          ‘qualified participant’ means—

19               “(A) a Federal land management agency;  
20               or

21               “(B) a State, tribal, or local governmental  
22               authority with jurisdiction over land in the vi-  
23               cinity of an eligible area acting with the consent  
24               of the Federal land management agency, alone  
25               or in partnership with a Federal land manage-

1           ment agency or other Governmental or non-  
2           governmental participant.

3           “(5) QUALIFIED PROJECT.—The term ‘qualified  
4           project’ means a planning or capital project in or in  
5           the vicinity of an eligible area that—

6                   “(A) is an activity described in section  
7                   5302, 5303, 5304, 5308, or 5309(a)(1)(A);

8                   “(B) involves—

9                           “(i) the purchase of rolling stock that  
10                          incorporates clean fuel technology or the  
11                          replacement of buses of a type in use on  
12                          the date of enactment of this section with  
13                          clean fuel vehicles; or

14                           “(ii) the deployment of alternative  
15                          transportation vehicles that introduce inno-  
16                          vative technologies or methods;

17                   “(C) relates to the capital costs of coordi-  
18                   nating the Federal land management agency  
19                   public transportation systems with other public  
20                   transportation systems;

21                   “(D) provides a nonmotorized transpor-  
22                   tation system (including the provision of facili-  
23                   ties for pedestrians, bicycles, and nonmotorized  
24                   watercraft);

1           “(E) provides waterborne access within or  
 2           in the vicinity of an eligible area, as appropriate  
 3           to and consistent with this section; or

4           “(F) is any other alternative transpor-  
 5           tation project that—

6                   “(i) enhances the environment;

7                   “(ii) prevents or mitigates an adverse  
 8           impact on a natural resource;

9                   “(iii) improves Federal land manage-  
 10          ment agency resource management;

11                  “(iv) improves visitor mobility and ac-  
 12          cessibility and the visitor experience;

13                  “(v) reduces congestion and pollution  
 14          (including noise pollution and visual pollu-  
 15          tion); or

16                  “(vi) conserves a natural, historical,  
 17          or cultural resource (excluding rehabilita-  
 18          tion or restoration of a non-transportation  
 19          facility).

20          “(c) FEDERAL AGENCY COOPERATIVE ARRANGE-  
 21          MENTS.—The Secretary shall develop cooperative arrange-  
 22          ments with the Secretary of the Interior that provide for—

23                  “(1) technical assistance in alternative trans-  
 24          portation;

1           “(2) interagency and multidisciplinary teams to  
2       develop Federal land management agency alternative  
3       transportation policy, procedures, and coordination;  
4       and

5           “(3) the development of procedures and criteria  
6       relating to the planning, selection, and funding of  
7       qualified projects and the implementation and over-  
8       sight of the program of projects in accordance with  
9       this section.

10       “(d)   LIMITATION   ON   USE   OF   AVAILABLE  
11   AMOUNTS.—

12           “(1) IN GENERAL.—The Secretary, in consulta-  
13       tion with the Secretary of the Interior, may use not  
14       more than 10 percent of the amount made available  
15       for a fiscal year under section 5338(b)(2)(H) to  
16       carry out planning, research, and technical assist-  
17       ance under this section, including the development of  
18       technology appropriate for use in a qualified project.

19           “(2) ADDITIONAL AMOUNTS.—Amounts made  
20       available under this subsection are in addition to  
21       amounts otherwise available to the Secretary to  
22       carry out planning, research, and technical assist-  
23       ance under this title or any other provision of law.

24           “(3) MAXIMUM AMOUNT.—No qualified project  
25       shall receive more than 12 percent of the total

1 amount made available to carry out this section  
2 under section 5338(b)(2)(H) for any fiscal year.

3 “(e) PLANNING PROCESS.—In undertaking a quali-  
4 fied project under this section—

5 “(1) if the qualified participant is a Federal  
6 land management agency—

7 “(A) the Secretary, in cooperation with the  
8 Secretary of the Interior, shall develop trans-  
9 portation planning procedures that are con-  
10 sistent with—

11 “(i) the metropolitan planning provi-  
12 sions under section 5303 of this title;

13 “(ii) the statewide planning provisions  
14 under section 5304 of this title; and

15 “(iii) the public participation require-  
16 ments under section 5307(e); and

17 “(B) in the case of a qualified project that  
18 is at a unit of the National Park system, the  
19 planning process shall be consistent with the  
20 general management plans of the unit of the  
21 National Park system; and

22 “(2) if the qualified participant is a State or  
23 local governmental authority, or more than one  
24 State or local governmental authority in more than  
25 one State, the qualified participant shall—

1           “(A) comply with the metropolitan plan-  
2           ning provisions under section 5303 of this title;

3           “(B) comply with the statewide planning  
4           provisions under section 5304 of this title;

5           “(C) comply with the public participation  
6           requirements under section 5307(e) of this title;  
7           and

8           “(D) consult with the appropriate Federal  
9           land management agency during the planning  
10          process.

11       “(f) COST SHARING.—

12           “(1) The Secretary, in cooperation with the  
13           Secretary of the Interior, shall establish the agency  
14           share of net project cost to be provided under this  
15           section to a qualified participant.

16           “(2) In establishing the agency share of net  
17           project cost to be provided under this section, the  
18           Secretary shall consider—

19           “(A) visitation levels and the revenue de-  
20           rived from user fees in the eligible area in  
21           which the qualified project is carried out;

22           “(B) the extent to which the qualified par-  
23           ticipant coordinates with a public transpor-  
24           tation authority or private entity engaged in  
25           public transportation;

1           “(C) private investment in the qualified  
 2           project, including the provision of contract serv-  
 3           ices, joint development activities, and the use of  
 4           innovative financing mechanisms;

5           “(D) the clear and direct benefit to the  
 6           qualified participant; and

7           “(E) any other matters that the Secretary  
 8           considers appropriate to carry out this section.

9           “(3) Notwithstanding any other provision of  
 10          law, Federal funds appropriated to any Federal land  
 11          management agency may be counted toward the  
 12          non-agency share of the net project cost of a quali-  
 13          fied project.

14          “(g) SELECTION OF QUALIFIED PROJECTS.—

15               “(1) The Secretary of the Interior, after con-  
 16               sultation with and in cooperation with the Secretary,  
 17               shall determine the final selection and funding of an  
 18               annual program of qualified projects in accordance  
 19               with this section.

20               “(2) In determining whether to include a  
 21               project in the annual program of qualified projects,  
 22               the Secretary of the Interior shall consider—

23                       “(A) the justification for the qualified  
 24                       project, including the extent to which the quali-  
 25                       fied project would conserve resources, prevent

1 or mitigate adverse impact, and enhance the en-  
2 vironment;

3 “(B) the location of the qualified project,  
4 to ensure that the selected qualified projects—

5 “(i) are geographically diverse nation-  
6 wide; and

7 “(ii) include qualified projects in eligi-  
8 ble areas located in both urban areas and  
9 rural areas;

10 “(C) the size of the qualified project, to  
11 ensure that there is a balanced distribution;

12 “(D) the historical and cultural signifi-  
13 cance of a qualified project;

14 “(E) safety;

15 “(F) the extent to which the qualified  
16 project would—

17 “(i) enhance livable communities;

18 “(ii) reduce pollution (including noise  
19 pollution, air pollution, and visual pollu-  
20 tion);

21 “(iii) reduce congestion; and

22 “(iv) improve the mobility of people in  
23 the most efficient manner; and



1           “(G) any other matters that the Secretary  
2           considers appropriate to carry out this section,  
3           including—

4                   “(i) visitation levels;

5                   “(ii) the use of innovative financing or  
6           joint development strategies; and

7                   “(iii) coordination with gateway com-  
8           munities.

9           “(h) QUALIFIED PROJECTS CARRIED OUT IN AD-  
10 VANCE.—

11           “(1) When a qualified participant carries out  
12           any part of a qualified project without assistance  
13           under this section in accordance with all applicable  
14           procedures and requirements, the Secretary, in con-  
15           sultation with the Secretary of the Interior, may pay  
16           the share of the net capital project cost of a quali-  
17           fied project if—

18                   “(A) the qualified participant applies for  
19           the payment;

20                   “(B) the Secretary approves the payment;  
21           and

22                   “(C) before carrying out that part of the  
23           qualified project, the Secretary approves the  
24           plans and specifications in the same manner as

1 plans and specifications are approved for other  
2 projects assisted under this section.

3 “(2)(A) The cost of carrying out part of a  
4 qualified project under paragraph (1) includes the  
5 amount of interest earned and payable on bonds  
6 issued by a State or local governmental authority, to  
7 the extent that proceeds of the bond are expended  
8 in carrying out that part.

9 “(B) The rate of interest under this paragraph  
10 may not exceed the most favorable rate reasonably  
11 available for the qualified project at the time of bor-  
12 rowing.

13 “(C) The qualified participant shall certify, in  
14 a manner satisfactory to the Secretary, that the  
15 qualified participant has exercised reasonable dili-  
16 gence in seeking the most favorable interest rate.

17 “(i) RELATIONSHIP TO OTHER LAWS.—

18 “(1) SECTION 5307.—A qualified participant  
19 under this section shall be subject to the require-  
20 ments of sections 5307 and 5333(a) to the extent  
21 the Secretary determines to be appropriate.

22 “(2) OTHER REQUIREMENTS.—A qualified par-  
23 ticipant under this section is subject to any other  
24 terms, conditions, requirements, and provisions that  
25 the Secretary determines to be appropriate to carry

1 out this section, including requirements for the dis-  
2 tribution of proceeds on disposition of real property  
3 and equipment resulting from a qualified project as-  
4 sisted under this section.

5 “(3) PROJECT MANAGEMENT PLAN.—If the  
6 amount of assistance anticipated to be required for  
7 a qualified project under this section is not less than  
8 \$25,000,000—

9 “(A) the qualified project shall, to the ex-  
10 tent the Secretary considers appropriate, be  
11 carried out through a full funding grant agree-  
12 ment, in accordance with section 5309(g); and

13 “(B) the qualified participant shall prepare  
14 a project management plan in accordance with  
15 section 5327(a).

16 “(i) ASSET MANAGEMENT.—The Secretary, in con-  
17 sultation with the Secretary of the Interior, may transfer  
18 the interest of the Department of Transportation in, and  
19 control over, all facilities and equipment acquired under  
20 this section to a qualified participant for use and disposi-  
21 tion in accordance with any property management regula-  
22 tions that the Secretary determines to be appropriate.

23 “(j) COORDINATION OF RESEARCH AND DEPLOY-  
24 MENT OF NEW TECHNOLOGIES.—

1           “(1) The Secretary, in cooperation with the  
2       Secretary of the Interior, may undertake, or make  
3       grants, cooperative agreements, contracts (including  
4       agreements with departments, agencies, and instru-  
5       mentalities of the Federal Government) or other  
6       transactions for research, development, and deploy-  
7       ment of new technologies in eligible areas that will—

8           “(A) conserve resources;

9           “(B) prevent or mitigate adverse environ-  
10       mental impact;

11          “(C) improve visitor mobility, accessibility,  
12       and enjoyment; and

13          “(D) reduce pollution (including noise pol-  
14       lution and visual pollution).

15          “(2) The Secretary may request and receive ap-  
16       propriate information from any source.

17          “(3) Grants, cooperative agreements, contracts  
18       or other transactions under paragraph (1) shall be  
19       awarded from amounts allocated under subsection  
20       (c)(1).

21          “(k) INNOVATIVE FINANCING.—A qualified project  
22       receiving financial assistance under this section shall be  
23       eligible for funding through a state infrastructure bank  
24       or other innovative financing mechanism available to fi-  
25       nance an eligible project under this chapter.

1 “(l) REPORTS.—

2 “(1) IN GENERAL.—The Secretary, in consulta-  
3 tion with the Secretary of the Interior, shall annu-  
4 ally submit a report on the allocation of amounts  
5 made available to assist qualified projects under this  
6 section to—

7 “(A) the Committee on Banking, Housing,  
8 and Urban Affairs of the Senate; and

9 “(B) the Committee on Transportation  
10 and Infrastructure of the House of Representa-  
11 tives.

12 “(2) ANNUAL AND SUPPLEMENTAL REPORTS.—  
13 The report required under paragraph (1) shall be in-  
14 cluded in the report submitted under section  
15 5309(m).”.

16 (b) CONFORMING AMENDMENTS.—The table of sec-  
17 tions for chapter 53 is amended by inserting after the item  
18 relating to section 5315 the following:

“5316. Alternative transportation in parks and public lands.”.

19 **SEC. 41. OBLIGATION CEILING.**

20 Notwithstanding any other provision of law, the total  
21 of all obligations from amounts made available from the  
22 Mass Transit Account of the Highway Trust Fund by, and  
23 amounts appropriated under, subsections (a) through (c)  
24 of section 5338 of title 49, United States Code, shall not  
25 exceed—

- 1 (1) \$7,646,336,000 for fiscal year 2005;
- 2 (2) \$8,208,645,000 for fiscal year 2006;
- 3 (3) \$8,673,850,000 for fiscal year 2007;
- 4 (4) \$9,477,988,000 for fiscal year 2008; and
- 5 (5) \$10,327,303,000 for fiscal year 2009.

6 **SEC. 42. ADJUSTMENTS FOR THE SURFACE TRANSPOR-**  
7 **TATION EXTENSION ACT OF 2004.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, the Secretary shall reduce the total appor-  
10 tionments and allocations made for fiscal year 2005 to each  
11 grant recipient under section 5338 of title 49, United  
12 States Code, by the amount apportioned to that recipient  
13 pursuant to section 8 of the Surface Transportation Ex-  
14 tension Act of 2004 part V (118 Stat. 1154).

15 (b) FIXED GUIDEWAY MODERNIZATION ADJUST-  
16 MENT.—In making the apportionments described in sub-  
17 section (a), the Secretary shall adjust the amount appor-  
18 tioned for fiscal year 2005 to each urbanized area for fixed  
19 guideway modernization to reflect the apportionment  
20 method set forth in 5337(a) of title 49, United States  
21 Code.

22 **SEC. 43. DISADVANTAGED BUSINESS ENTERPRISE.**

23 Section 1821(a) of the Safe, Accountable, Flexible,  
24 and Efficient Transportation Equity Act of 2005 shall

- 1 apply to all funds authorized or otherwise made available
- 2 under this Act.

Calendar No. 94

109TH CONGRESS  
1ST Session  
**S. 907**

**A BILL**

To amend chapter 53 of title 49, United States Code, to improve the Nation's public transportation and for other purposes.

APRIL 26, 2005

Read twice and placed on the calendar